going to go. You promised to limit this stuff. It was limited.

The Court: I promised to limit it, but they are not reading any excerpts from it. They haven't for some time.

Mr. Lewis: The Blankenstein Case says you can introduce extra cont. - to show circumstantial evidence of sale. [fol. 736] The Court: There is no question about that. But you have so many extra copies offered. The jury peruses this and reads anything concerning the trial of others that may by association be swayed in this matter. I will sustain his objection to this particular volume.

Mr. Lewis: Those three bundles?

The Court: Yes.

Mr. Nelson: Do you want to take up some other matters now or after. I have one other request?

The Court: Is it on the record or off the record?

Mr. Nelson: It is on the record, Your Honor. I would like to know whether the Court would permit me to take off tomorrow about 3 o'clock. I have to go to Philadelphia and New York for two reasons, for medical, and in respect to my defense.

[fol. 737] The Court: My fullest intention was to release the jury early tomorrow anyway due to the Christmas week.

Mr. Nelson: My train leaves at 2 something, and one train leaves close to 4. I would like to make that later train. I couldn't get any other reservations.

Mr. Lewis: The only thing is I will be through with this witness either by 4 o'clock or a quarter to 10, and if Mr. Nelson can finish his cross examination?

The Court: I can't force him to do that.

Mr. Lewis: I am only suggesting he might do that. I don't want to limit him either.

Mr. Nelson: Regarding this matter, Mr. Lewis—cross-examination—I am not able to do that now. And I haven't [fol. 738] got the record, and I don't have the experience. If it was the question of a political debate I would be ready to do that, but that it not what this is. It is the trial. I don't know how to handle this kind of matter. And I am going to try to get an attorney who is going to be able to read this record and help me in the cross examination, if I can get one. The attorneys take the position they are not going to take the responsibility for the mess.

The Court: His request is reasonable, gentlemen. We will adjourn tomorrow at 3 rather than 4. The hour's difference is not going to be important in the completion or non-completion of this cross-examination.

Mr. Nelson: May I make this request, Your Honor, rather than proceed myself with the inadequate cross-examination or unprepared as I am for it tomorrow, that the prosecution put on it's other witnesses and I will come [fol. 739] back to this witness either with counsel later on or do the best I can do without counsel. At least I will have some preparation.

The Court: There are so many general things that you probably want to go into on your own account with this witness. I will concede to your request concerning the 3 o'clock adjournment tomorrow with that. I will not rule on anything else at this time and I won't make any promises to you on that at this time—on the matter of cross examination.

Mr. Nelson: Note my exceptions.

The Court: Yes.

(End Side Bar.)

Q. I show you Commonwealth Exhibit No. 139 and ask you what that is, if you know?

A. It is a bundle of pamphlets, leaflets entitled "Hands [fol. 740] off Korea and Formosa", by Gus Hall, national secretary of the Communist Party.

Q. How many pamphlets are here—an idea?

A. I guess about a hundred, saw it over in the Communist headquarters on August 31, 1950.

(Copy given to defendant.)

The Court: Same objection is interposed to that, and objection overruled.

Mr. Lewis: We offer in evidence Commonwealth Exhibit No. 139.

(Commonwealth Exhibit No. 140, marked for identification.)

Q. I show you Commonwealth Exhibit No. 140 and ask you if you know what that is?

A. It is a bundle of sheets, a so-called peace petition.

Mr. Nelson: Is that what the name of it is?

A. (Continued) It has no name. The title reads "Your [fol. 741] Hand can Stop Atomic War: Sign for Peace."

Q. Did you ever see that bundle before?

A. Yes, I did. I saw it in the Headquarters of the Communist Party on August 31, 1950.

Mr. Lewis: We offer in evidence Commonwealth Exhibit No. 140.

The Court: Same objection interposed. Objection overruled.

(Commonwealth Exhibit No. 141, marked for identification.)

Q. I show you Commonwealth Exhibit No. 141 and ask you what that is?

A. Four books entitled "The Road to Power" by Joseph Stalin. I saw these in the Communist Headquarters on August 31, in the Bakewell Building, Pittsburgh.

Mr. Lewis: We offer in evidence Commonwealth Exhibit No. 141.

The Court: Same objection. Objection overruled.

[fol. 742] (Commonwealth Exhibit No. 142, marked for identification.)

Q. I show you Commonwealth Exhibit No. 142 and ask you what that is, if you know?

A. Five pamphlets entitled "The War of National Liberation" by Joseph Stalin. Saw these in the Communist Headquarters in the Bakewell Building, August 31, 1950.

Mr. Lewis: We offer in evidence Commonwealth Exhibit No. 142.

The Court: Same objection. Objection overruled.

(Commonwealth Exhibit No. 143, marked for identification.)

Q. I show you Commonwealth Exhibit No. 143 and ask you what that is, if you know?

A. Bundle of four books entitled "Will the Bolsheviks Retain State Power?" by V. I. Lenin. Saw these in the

Communist Headquarters in the Bakewell Building on August 31, 1950.

Mr. Lewis: We offer in evidence Commonwealth Exhibit [fol. 743] No. 143.

The Court: Same objection. Objection overruled.

(Commonwealth Exhibit No. 144, marked for identification.)

Q. I show you Commonwealth Exhibit No. 144 and ask you what that is, if you know?

A. A bundle of three booklets "Value, Price and Profit" by Karl Marx, printed by the International Publishers in New York. Saw these in the Communist Headquarters of the Communist Party in the Bakewell Building, August 31, 1950.

Mr. Lewis: We offer in evidence Commonwealth Exhibit No. 144.

The Court: Objection overruled.

(Commonwealth Exhibit No. 145, marked for identification.)

Q. I show you Commonwealth Exhibit No. 145 and ask you if you know what that is?

[fol. 744] A. A pamphlet entitled "Mastering Bolshevism" by Joseph Stalin, which I saw in the Headquarters of the Communist Party August 31, 1950.

Mr. Lewis: We offer in evidence Commonwealth Exhibit No. 145.

The Court: Objection overruled.

(Commonwealth Exhibit 146, marked for identification.)

Q. I show you Commonwealth Exhibit No. 146, and ask you if you know what that is?

A. Nine pamphlets entitled "Benjamin Rush Bulletin" which I saw in the Communist Headquarters August 31, 1950.

Mr. Lewis: We offer in evidence Commonwealth Exhibit No. 146.

The Court: Same objection. Objection overruled.

(Commonwealth Exhibit No. 147, marked for identification.)

[fol. 745] Q. I show you Commonwealth Exhibit 147, and ask you if you know what that is?

A. Bundle of pamphlets, about 11, entitled "Marxism and Revisionism" by V. I. Lenin and Joseph Stalin which I saw in the Communist Headquarters on August 31, 1950, in the Bakewell Building, Pittsburgh.

Mr. Lewis: We offer in evidence Commonwealth Exhibit 147.

The Court: Same objection. Objection overruled.

(Commonwealth Exhibit No. 148, marked for identification.)

Q. I show you Commonwealth Exhibit 148, and ask you if you know what that is?

A. That is a bundle of four books called "Foundations of Leninism" by Joseph Stalin, which I saw in the Communist Headquarters in Pittsburgh on August 31, 1950.

Mr. Lewis: We offer in evidence Commonwealth Exhibit No. 148.

[fol. 746] The Court: Objection overruled.

(Commonwealth Exhibit No. 149, marked for identification.)

The Court: Are they different copies of the magazines they purport to be?

Mr. Lewis: Some of them are the same, some are different. It is the same magazine, of course.

The Court: Have the witness identify them.

Q. I show you Commonwealth Exhibit 149, consisting of a bundle of magazines entitled "U. S. S. R. Information Bulletin", there being 60 copies in the bundle, and ask you if you ever saw that bundle before?

A. Yes, I did. I saw it in the Communist Headquarters in the Bakewell Building, August 31, 1950, magazine entitled "U. S. S. R. Information Bulletin" consisting of various issues of that magazine.

Q. Do you know where that magazine is published? Anything in the magazine itself that indicates where?

[fol. 747] A. Published twice monthly by the Embassy of the Union of Soviet Socialist Republics, of 2120 Massachusetts Avenue, Northwest, Washington, D. C.

Mr. Lewis: We offer in evidence Commonwealth Exhibit 149. If the court please, we will have this tied up in a bundle.

The Court: Same objection. Objection overruled.

(Court adjourned until tomorrow morning, December 21, 1951 at 10:00 o'clock A. M.)

[fol. 748] Friday, December 21, 1951, Court convenes pursuant to recess of yesterday afternoon and the taking of testimony continues:

The Court: Proceed.

Mr. Nelson: May we approach the bench?

The Court: Yes, come forward.

(At side-bar.)

Mr. Nelson: I have a small matter, your Honor. I don't know whether I will be able to take advantage of that permission granted me for this afternoon. I couldn't make the connections and, therefore, it would be useless for me to make the trip unless I am sure. I would like the Court to know that I would rather ask permission on whether or not I could do that after Christmas, that is, during the intervening holiday, if I can't do it today.

The Court: You have my permission to go to Philadelphia between the adjournment today and January 2nd, yes.

Mr. Nelson: Thank you.

[fol. 749] The Court: We will continue, then, a little bit later than necessary today, because I am going to release this jury, I think, at 3:00 o'clock.

Mr. Nelson: I am not sure I will know at noon time.

The Court: All right, let me know at noon time.

Mr. Nelson: One more thing, your Honor. I don't know whether I handled this question. You see here an issue of the Sun Telegraph, yesterday's issue, and there is a story here that no Pittsburgher will miss; I am sure no one will miss, by T. D. Jones——

The Court: I missed it, whatever it was.

Mr. Nelson: It deals with the speech that the interview with Judge Musmanno, in which the following is stated in Jones' column: "And while we were visiting around we dropped in on Judge M. A. Musmanno and we got on the subject of important trials. Then I up and asked him why he happened to get so emotional when the verdict was [fol. 750] brought in on the important sedition trial. You remember Judge Musmanno had been a witness for 31 days. When I asked him that question he said: 'Davy, I have been fighting Communism and Communists for 25 years. I saw what they did in Europe when I was in the Navy. Before the trial ended, I learned of the unspeakable atrocities committed on American soldiers by the Korean and Chinese Communists in Korea. One soldier wrote me about an unutterable incident where Korean Communists blinded an American prisoner before killing him'."

The Court: Well, I am going to suggest, if you are going to move for the withdrawal of a juror—I suppose that is what you mean—on account of this newspaper article——

Mr. Nelson: Permit me to finish this. It bears directly on this trial.

> "After the jury returned its verdict, I found out for the first time that a son of the foreman of the jury had been killed in Korea. The whole jury was weeping from the effects of the eight-month trial, and I myself [fol. 751] broke into tears as I thought of the many mothers' sons who could have been saved from their horrible deaths if Communists had been restrained a long time ago. I am sure that Stalin would never have started his aggressive wars if he didn't have fifth columnists in other countries."

Now, your Honor, I think that this is so prejudicial, particularly when taken together with the ceremonies now in connection with Judge Musmanno's ascending to the Supreme Court. You saw all three papers yesterday had pictures, eulogies to him. It puts me, as a defendant, in a very disadvantageous position. He uses the dignity and position that he has in such a way that even if things are not stated in the Court room, if they are read by the jurors, you cannot

have an impartial trial, you are not going to have a chance where these jurors can think the matters over coolly and calmly—but they want to be compelled to do it on the basis of bias and prejudice. Therefore, I move for the withdrawal of jurors, and move for a mistrial.

[fol. 752] The Court: Your motion is overruled, and an exception noted. You may, if you wish, place your motion in writing and attach a copy of it to that.

Mr. Nelson: Thank you.

(End side bar.)

The Court: Proceed.

MICHAEL A. MUSMANNO, resumed the stand and testified further as follows:

Direct examination (continued).

(Commonwealth's Exhibit No. 150, marked for identification.)

Mr. Lewis:

Q. I show you Commonwealth's exhibit No. 150, and ask you if you know what that is?

A. This is a bundle of nine booklets, being a magazine entitled, "Masses and Mainstream."

Q. Have you ever seen those books before?

A. Yes. This is a bundle of nine magazines, "Masses and Mainstream", a Communist publication, carrying on the cover a picture of Eugene Dennis, who is the general secretary of the Communist Party, and I saw these in the Communist headquarters at Pittsburgh, in the Bakewell Building, on August 31st, 1950.

[fol. 753] The date of the magazine is May, 1950.

Mr. Lewis: We offer in evidence Commonwealth's Exhibit No. 150.

The Court: The same objection noted and overruled.

(Commonwealth's Exhibit No. 151 marked for identification.)

Mr. Lewis:

Q. I show you Commonwealth's Exhibit No. 151, and ask you if you know what that is.

A. This is a bundle of four copies of the same magazine, issue of April, 1950, which I found in the Communist headquarters in Pittsburgh on August 31st, 1950.

Mr. Lewis: We offer in evidence Commonwealth's Exhibit No. 151.

The Court: The same objection is noted, and overruled.

(Commonwealth's Exhibit No. 152 marked for identification.)

Mr. Lewis:

Q. I show you Commonwealth's Exhibit No. 152, and ask [fol. 754] you if you ever saw that before?

A. Yes, sir. This is a bundle of three copies of the same magazine, issue of March, 1950, which I saw in the Communist headquarters in the Bakewell Building on August 31st, 1950.

Mr. Lewis: We offer in evidence Commonwealth's Exhibit No. 152.

The Court: Same objection noted, and overruled.

(Commonwealth's Exhibit No. 153 marked for identification.)

Mr. Lewis:

Q. I show you Commonwealth's Exhibit No. 153, and ask you if you know what that is?

A. This is a bundle of two copies of the same magazine, issue of August, 1950. This is the same one which carries the cartoon, which I identified yesterday, showing United States imperialism.

Q. Wait until we get the exhibit on that.

A. That is August, 1950, "Masses and Mainstream."

The Court: That is Exhibit 43.

Mr. Lewis: Exhibit 43.

A. (Continuing:) With a cartoon signifying United States imperialism stretching a bloody hand over Korea. I

[fol. 755] saw these in the headquarters of the Communist Party on August 31st, 1950.

Mr. Lewis: We offer in evidence Commonwealth's Exhibit No. 153, consisting of two volumes of, "Masses and Mainstream," August, 1950, which are duplicate copies of Commonwealth's Exhibit 43.

Mr. Nelson: Your Honor, why did the prosecution decide to repeat the items that were already put in? Is it for its effect?

The Court: I think to identify it as we have done in other instances, tying it in with the previous exhibits to just show the additional copies.

(Commonwealth's Exhibit No. 154 marked for identification.)

Mr. Lewis:

Q. I show you Commonwealth's Exhibit No. 154, and ask you if you know what that exhibit is?

A. It is a large bundle of newspapers entitled, "Daily Worker" and the "Worker", the official organ of the Communist Party in the United States. I went through all these papers and found them following a pattern of glorification of Soviet activities, and criticism and degradation of the United States.

[fol. 756] Q. When did you first see these papers?

A. On August 31st, 1950. And, of course, I saw them after that—as, indeed, I saw all these exhibits after August 31st, 1950—but that is when I first was able to examine them in some detail.

Q. Where did you see them?

A. In the Communist headquarters in the Bakewell Building, as I said, on August 31st, 1950, and since.

Mr. Nelson: Your Honor, I would like to be clarified, is the prosecution going to try a newspaper or try me because I have some connection with this newspaper? Is that a crime?

The Court: No. It comes in on the same basis as all the other evidence not set forth in the indictment, to show what, if any acts were committed by you, to show the motive and intent on your part of any acts committed by you, for which you are on trial.

Mr. Nelson: By virture of the fact that these newspapers were in my possession, legally printed and distributed to the United States—is that the meaning?

[fol. 757] The Court: Well, the jury infers any intent or motive from that fact; they may consider the fact. It is for them to determine what inferences shall be drawn therefrom.

Mr. Nelson: Well then, your Honor, I think the point ought to be made at this time that this is a trial of——

The Court: Of you.

Mr. Nelson (Continuing): "Freedom of speech;" as being denied. And that is being considered—because I have neither printed the paper nor written those articles; nor have they been found in my house.

The Court: That will be fully explained to the jury during the Court's charge, and you will be privileged to submit to me any points that you want me to instruct the jury about, if you want to include that. The jury will be fully informed on the matter of freedom of speech, freedom of the press, and anything else relevant to this issue.

[fol. 758] Mr. Nelson: Of course, due to the lack of counsel, I don't know what motions or objections to make.

The Court: Well, I am entering your objections to the relevancy and its admission.

Mr. Nelson: I think this is wrong. All I can say, as a layman, what is being done here is a heresy trial, and I am being tried for views and so forth, not for any crimes that I committed.

The Court: That is your opinion. Of course, according to our procedure you are not entitled to express it in the manner you do, but we have been overlooking that; we have been protecting your record insofar as you are concerned, since you are without counsel, by entering at each step of the formalities here your objection. So, if we are wrong, and you have counsel later, they may argue these points upon which you are being overruled. The record is complete to give you that protection. So, there will be an objection noted here, and overruled, as we have been doing in con-
[fol. 759] nection with the other exhibits.

(Commonwealth's Exhibit No. 155 marked for identification.)

Mr. Lewis:

Q. I show you Commonwealth's Exhibit No. 155, and ask you if you know what that is?

A. This is a carton containing a book by Eugene Dennis. The book is entitled, "Ideas They Cannot Jail". It carries a picture of Eugene Dennis on the cover (he is the general secretary of the Communist Party of the United States), and I found these books in the Communist headquarters at the Bakewell Building, Pittsburgh, on August 31st, 1950. I am trying to count them now.

The Court: May I see one of those books, please.

A. (Continuing:) There are 53 copies of this book in the carton. I read from this same book yesterday.

The Court: That was in connection with which exhibit?

The Witness: I think I did.

Mr. Lewis: We offered it in evidence, I know; I am not sure whether you read from it. I know it was offered in evidence.

[fol. 760] The Court: Well, it is showing an additional number of copies of one of the previous exhibits.

Mr. Lewis: We offer in evidence Commonwealth's Exhibit No. 155.

The Court: Objection noted and overruled.

Mr. Lewis: Mr. Cerepne informed me that Exhibit No. 155 are duplicate copies of Exhibit 67.

(Commonwealth's Exhibit No. 156, marked for identification.)

Mr. Lewis:

Q. I show you Commonwealth's Exhibit No. 156 and ask you if you know what that is?

A. This is a book entitled, "The Path to Peace, Progress and Prosperity", containing the proceedings of the Constitutional Convention of the Communist Political Association in New York, May 20, 1944, referring to the episode when the name of the Communist Party was changed to, "Communist Political Association", and then later went back to the name of "Communist Party". I saw this in the Communist headquarters on August 31st, 1950, and since.

On page 138 there appears a list of the members of the [fol. 761] National Committee of the Communist Party, and in that list of names the name of the defendant appears "Steve Nelson" as a delegate from California at that convention.

Mr. Lewis: We offer in evidence Commonwealth's Exhibit No. 156.

The Court: Objection noted and overruled.

(Commonwealth's Exhibit No. 157 marked for identification.)

Mr. Lewis:

Q. I show you Commonwealth's Exhibit No. 157, and ask you if you know what that is?

A. This is a paper which I found on Steve Nelson's desk—rather, in his desk, on August 31st, 1950.

Mr. Lewis: We offer in evidence Commonwealth's Exhibit No. 157, and will show it to your Honor first. We intend to follow that up with the original telegram, by issuing a subpoena for the Western Union.

The Court: Objection, Mr. Nelson?

Mr. Nelson: Yes, I object. I don't see any crime in it.

[fol. 762] The Court: All right, objection overruled, and exception noted.

Mr. Nelson: I don't see anything against me in that.

The Court: I do not know what effect it has on you, but we will see.

Mr. Lewis: I ask permission to read it to the jury.

The Court: All right.

Mr. Lewis: "Night letter, May 29, 1950. Eugene Dennis, Federal House of Detention, 427 West Street, New York City, New York. Western Pennsylvania Party Conference to launch crusade for peace and building workers circulation sends you warmest greetings. Recruited five workers for basic industry for the goal of 25 in the campaign named in your honor. Conference pledged recruiting remaining 20 by July 16. Further pledge to make real drive for peace and develop mass circulation of Worker, pledge to be worthy of example you set as champion fighter for peace in

[fol. 763] U. S. A. Wish you best of health and will fight for your earliest return." Signed, "Steve Nelson".

Mr. Nelson: Let the record show that was a telegram sent through the usual facilities by means of open telegram; therefore, there was no secret about it. I would like to know what kind of a curve Mr. Lewis is trying to put on this telegram. What do you mean? You mean I can't send a telegram to a man?

The Court: It will speak for itself, Mr. Nelson. Mr. Lewis has stated that he will show the facts that you mention, that it was sent through the Western Union, by producing a record of the Western Union to that effect.

Mr. Nelson: Well, I don't deny it; but is that a crime?

The Court: Well, in itself, I would say, no. It may have some bearing on the general matter we are discussing, and that is for the jury's determination after proper charge by the Court.

[fol. 764] If it is admitted that that matter was transmitted through the Western Union, that would avoid the necessity of calling in the Western Union, or producing any Western Union record to support the statement.

(Commonwealth's Exhibit No. 158 marked for identification.)

Mr. Lewis:

Q. I show you Commonwealth's Exhibit No. 158, and ask you whether you seen that before?

A. Yes. This is a newspaper entitled, "For A Lasting Peace, For a People's Democracy". It is the official organ of the Cominform, which is a combination of Communist parties in Europe. The date of the paper is August 4, 1950, and was found in the Communist Party headquarters on August 31st, 1950.

Q. Where is the paper published?

A. The paper is published in Bucharest, which is the seat of this group of Communist parties in Europe.

Mr. Lewis: We offer in evidence Commonwealth's Exhibit No. 158.

The Court: Objection noted and overruled.

(Commonwealth's Exhibit No. 159 marked for identification.)

[fol. 765] Mr. Lewis:

Q. I show you Commonwealth's Exhibit No. 159, and ask you if you ever saw that before?

A. This is another issue of the same paper. This issue is dated Friday, August 25, 1950, and was obtained at the same place, the same time.

Mr. Lewis: We offer in evidence Commonwealth's Exhibit No. 159.

The Court: Objection noted and overruled.

(Commonwealth's Exhibit No. 160 marked for identification.)

Mr. Lewis:

Q. I show you Commonwealth's Exhibit No. 160, and ask you if you have ever seen those newspapers before?

A. These are other issues of the same newspaper, and I saw them in the Communist headquarters in Pittsburgh, in the Bakewell Building, on August 31st, 1950.

Q. Will you tell us how many copies are in that exhibit?

A. 13 copies of that newspaper.

Mr. Lewis: We offer in evidence Commonwealth's Exhibit No. 160, consisting of 13 copies of the newspaper, "For A Lasting Peace, for People's Democracy".

[fol. 766] The Court: Objection noted and overruled.

Mr. Lewis: In connection with Exhibit 159, and 160, I would like—Exhibits 158 and 159, I would like permission to show the exhibits to the jury and read articles on the front pages of each of these exhibits. That is the end of our exhibits.

The Court: Is that the end of your exhibits?

Mr. Lewis: Yes, the end of our exhibits.

Mr. Nelson: Your Honor, I think that they, if they are going to be looked at by the jury, let them look at them without any interpretation and without any emphasis or inflections by the prosecutor or this witness.

Mr. Lewis: There will be no inflections.

The Court: How long is the article?

Mr. Lewis: I will show you, your Honor. This is the first one (indicating), and this is the second one (indicating). I might say that I read them both in the last trial to the jury.

[fol. 767] The Court: Is it necessary to read all of this? I see certain parts marked—would you prefer them to be read as a whole, Mr. Nelson, if read at all?

Mr. Nelson: I prefer to have them read as a whole if they are going to be read at all.

The Court: You may read them, but without emphasis or inflection.

Mr. Nelson: But I don't want to waive any of my rights or grounds. I believe no jury should be required to pass judgment on what another man should read.

The Court: Well, that is your general objection to the offer, and is noted; but since it was overruled, the question is now whether it should be read or just submitted. I asked you whether, if I permitted it to be read, you wanted it all read or just the excerpts, and you said you wanted it all read.

Mr. Nelson: I am not sure about the legal position, your [fol. 768] Honor, but I believe that my soundest position would be, not knowing the law and so forth, to object against this being read, on the ground that the jury should not be required to pass on what other people read. They should pass on crimes committed, not on things that people read or believe in.

The Court: Well, that is the general objection noted.

Mr. Nelson: It is in conflict with the First Amendment to the United States Constitution.

The Court: You may read it all, each of the articles, without inflection or emphasis.

Mr. Lewis: First, I would like to show the newspapers to the jury. This is the newspaper that I am going to read from (indicating), Commonwealth's Exhibit No. 158.

Mr. Nelson: May I be given a copy, if there is an extra one?

Mr. Cercone: What is the date of that?

[fol. 769] Mr. Lewis: This is August the 25th, 1950.

Reading the article under the heading: "Stay The Hand of The American Fascist Murderers."

"Two months have elapsed since the Korean People's Democratic Republic was attacked by the troops of the puppet Syngman Rhee; since the brazen armed American intervention in the civil war in Korea and transition of U.S. imperialists from preparation for aggression to open acts of military aggression.

"During these two months, U. S. ruling circles sustained heavy defeats both in the military and moral-political fields. The attempt of the U.S. imperialists to pave the way to domination in Korea by force of arms and bloodshed encountered mighty resistance from the Korean people and aroused furious indignation among the masses of the people in all countries. No trace remains of MacArthur's boastful declarations, his blabber about near 'victory' and the imminent 'destruction' of the Korean People's Republic. The plans of the interventionists have been foiled by the successful counteroffensive of the People's Army. Engulfed in the ocean of wrath and hatred of the Korean people, the American invaders are every [fol. 770] day rolling further and further back South. The perspective of a complete rout is taking ever clearer shape in the minds of MacArthur's soldiers who are unable to withstand the blows of the heroic army of the Korean people fighting for a sacred and just cause—for freedom, independence and unity of their country against foreign oppressors.

"Enraged by the failure of their military adventure the American interventionists are trying, by vile atrocities, by unbridled terror, barbarous annihilation of the defenseless, peaceful inhabitants, to suppress the high morale of the fighting people and thus change the co-relation of forces in their favour. American aircraft are dropping thousands of deadly bombs on Korean towns and villages, on women, children and the aged. American warships are bombarding towns and villages on the coast. In a cable to the Security Council, Pak Hen'den, Foreign Minister of the Korean People's Republic, described the colossal ravages caused by the bombings of Pyongyang and Seoul, the complete destruction of Hunnam, and the treugendous

casualties among the peaceful population. The war criminal MacArthur, daily, with a cynicism that outshines the bragging of the Goerings' and Goebbels' [fol. 771] boasts about the number of bombs his 'Flying Fortresses' have dropped and 'regrets' it is 'impossible' to furnish a list of the objects of destruction or to estimate the damage caused!

"The ground units of the aggressor which landed in Korea concede nothing to the air and naval pirates in regard to cruelty. Retreating under the blows of the People's Army they blow up and burn towns and villages, carrying off or destroy on the spot all peaceful inhabitants and shoot political prisoners. The whole world was stunned by the report of the shooting of seven thousand Korean patriots by U.S. and Syngman Rhee soldiers in the village of Rang Wul, situated on the main road near Taejon. Six pits, the largest of which was more than 200 metres long, four metres wide and two metres deep, were filled with the mutilated corpses of Korean patriots. In the small town of Phentuek (Heitaku) with a population of 20,000, 3030 men, women and children were killed. The war criminals will not escape the avenging hand of the peoples throughout the world!

"Turning to a correspondent of the 'New York Herald Tribune' an American officer declared after such a massacre, 'Call us a company of murderers!' (New York Herald Tribune, August 10, 1950.) This nursling [fol. 772] of MacArthur probably did not think he was branding not his company alone but the entire sanguinary horde which American imperialism hurled against the peace-loving people. The destruction of peaceful towns and villages, the mass annihilation of children, women and the aged, exposes frenzied fascists, rapacious invaders. The heinous crimes of the American interventionists in Korea rip the mask from the Washington rulers and expose before the entire world the true face of aggressive American imperialism—the rabid enemy of all peace-loving peoples, the sworn enemy of democracy and freedom of the peoples.

"The working people in all countries, the peace-loving peoples throughout the world, are beginning to perceive ever-more clearly the foul designs of the American interventionists in Korea, their real imperialist aims.

"The aims of the American imperialists are to seize the whole of Korea, its wealth, to annihilate and enslave its population, to destroy the system of people's democracy, to establish the fascist-police dictatorship of Syngman Rhee throughout the country and finally [fol. 773] to create on the Asian continent a war base which would facilitate the development of aggression against the U.S.S.R., People's China and the colonial peoples of South East Asia now struggling for liberation.

"Simultaneously the rulers of the U. S., who head the bloc of the imperialist warmongers, want to use the war adventure in Korea to whip up war hysteria throughout the world, in order to speed up war preparations and thus weaken the impact of the growing economic crisis. In all countries under capitalist oppression, American imperialists and the governments subordinated to them, are using the war provocation in Korea as a pretext further to extend the feverish armaments drive; to speed up the fascisation of the rear, and finally to strangle the remnants of democratic freedom and to start their terroristic crusade against the democratic organizations and the press, not hesitating even before the physical annihilation of the leaders of the working class, as seen by the assassination of the President of the Communist Party of Belgium, Comrade Lahaut.

"The aim of the bombardment of Pyongyang, Seoul and other towns and villages in Korea, in line with the [fol. 774] criminal designs of the imperialists is not only to crush the resistance of the Korean people but also to threaten the peoples and to paralyze their struggle against imperialism.

"The bombs dropped on the population of Korea are directed against all working people, against all peace partisans throughout the world.

"The conscience of the peoples cannot be reconciled to the sanguinary crimes of the American invaders in Korea! The peoples of the world demand that the hand of the fascist killers be stayed and that an end be put to their heinous crimes. The Permanent Committee of the World Peace Congress, the World Federation of Trade Unions, the International Students' Union, the International Association of Democratic Jurists and mass public organizations in the U. S. S. R., China, Poland, Czechoslovakia, Rumania, Hungary, Bulgaria, France, Italy, Great Britain, Canada, Latin America, U. S. A. and other countries, in their appeals and resolutions to U. N. O. are demanding the immediate ending of U. S. imperialist aggression in Korea, the effective defense of the people of Korea from the brutality of the American invaders, and the immediate withdrawal of all foreign troops from Korea.

[fol. 775] "Everywhere men and women who thirst for peace are increasing their activity to end the military aggression of American imperialists directed against the Korean people, to prevent the dispatch of military units, military equipment and ammunition to Korea. The pages of deathless glory now being written daily by the heroic people of Korea in the annals of the fight of the peoples against imperialist slavery, inspire the common people throughout the world. The movement of the peoples against the U. S. warmongers and their satellites is mounting. The international movement against war and for peace throughout the world is growing and is being strengthened in all countries.

"During the two months since the beginning of U. S. aggression in Korea, the number of signatures to the Stockholm appeal has increased by more than 150,000,000 and now 336,000,000 people in all parts of the world have signed the appeal for banning the atomic weapon. Working people are strengthening their concrete actions against war. The wrathful protests of these hundreds of millions of people who declare: 'End the brutalities of the American interventionists in Korea!', 'Stop immediately the hostilities in Korea!',

[fol. 776] "Withdraw all foreign troops from Korea!" ring more and more loudly round the world.

"Giving effective moral assistance to the Korean people this great and invincible army of the Partisans of Peace is creating an ever wider, more powerful and better organized front against the U. S.-British instigators of war. This front will secure the defeat of the aggressors, the punishment of war criminals and the triumph of the cause of peace throughout the world."

Mr. Nelson: Your Honor, I would like to know what the prosecution intends to show with this document. This, as far as I am able to determine, it appears that they want to justify the continuation of the war in Korea when the majority of the country doesn't want it. Even according to the Gallup Poll, it states that Truman was wrong in sending out our troops there. And now, here we are just before Christmas, your Honor, when everybody talks about peace and what not, and these people are now taking advantage of this opportunity to spread more war propaganda to continue the war.

[fol. 777] The Court: They are reading——

Mr. Nelson: Instead of stopping it.

The Court: They are reading papers that were in your possession. What effect or influence that will have, will be determined by the jury. If it is something that is not involved here, if it shows the proper intention or motive on your part, I will give you the benefit of it. If they interpret it otherwise, they will probably not infer the wrong motive or intention. But it is read to them so they know what material was in your possession, possession of the headquarters which allegedly were under your supervision as chairman. That is the purpose of it, and nothing else.

Mr. Nelson: Well, your Honor, is it wrong for citizens of the United States to be opposed to the policies of the Administration?

The Court: You can argue that later.

Mr. Nelson: They can't say I went out and told the [fol. 778] soldiers to refuse to go—I didn't do that. We said, "Write to Congress, tell Congress to stop."

The Court: Do not argue your case to the jury or to me

at this stage. If you want to enter an objection to it, or another reason for your objection, we will note it. Do not argue your case now.

Mr. Nelson: I will make another reason, your Honor——

Mr. Lewis: I object to these speeches.

Mr. Nelson: In 1847 when this Country fought a war against Mexico.

The Court: Wait a minute.

Mr. Nelson (Continuing): Lincoln got up and opposed it. He was a Congressman at that time, and said we had no business going into that war.

The Court: Mr. Nelson——

Mr. Nelson (Continuing): I am doing the same thing now, your Honor.

The Court: Restrain this defendant by force—or will [fol. 779] you calm down and be seated?

Mr. Nelson: Very well, sir.

The Court: Be seated.

Mr. Nelson: I don't know how to put these objections in without——

The Court: All you have to do is enter an objection. You asked this man to read this all without emphasis——

Mr. Nelson: I didn't ask him to read it.

The Court (Continuing): And without inflection.

Mr. Nelson: I objected to it.

The Court: When I permitted him to read it, you asked me to instruct him to do it without inflection. Now you get up to make an objection and inflect your voice, you emphasize, you gesture. Now if you expect me to control him, you will have to control yourself. I appreciate that you are not a lawyer——

Mr. Nelson: The difference is, Your Honor, he has an [fol. 780] ax to grind, and I am being put up against 20 years in jail.

The Court: You may argue that to the jury.

Mr. Nelson: That's the difference.

The Court: At that time you can do it with all the emphasis you can put into it, but don't do it at this time.

Proceed, Mr. Lewis.

Mr. Lewis: The other paper I read from is the same paper, dated August 4, 1950. I will read the article here

at the bottom of the right hand corner of the first page, entitled: "Against the Sanguinary Crimes of the American Interventionists in Korea".

"When the United States-British imperialists launched their intervention in Korea they reckoned on a lightening victory which would have enabled them to make a slave of the Korean people, and transform the Korean peninsula into a military outpost for unleashing war against the camp of Socialism and democracy.

"The working people of the Korean People's [fol. 781] Democratic Republic have frustrated all these plans of Truman and his Wall Street bosses. Rising as one man in the struggle for the freedom and independence of their country, they are delivering telling blows at the interventionists. United States troops are daily rolling further and further back to the South-East extremes of the peninsula.

"Suffering defeat after defeat at the front, the United States imperialists are unloosing their rage on the civilian population of Korea. The United States air-force and the navy are barbarously shelling, bombing and burning peaceful towns and villages in Korea. As a result of brutal American air raids, the town of London, was completely destroyed and according to Boyle, an Associated Press correspondent, now resembles Nagasaki after the atom bomb explosion. Thousands of people perished in London. To Coventry and Lidice, ruthlessly destroyed by the Hitlerites in the last war, there has now been added London, barbarously devastated on MacArthur's orders. In Wonsan, American savages destroyed a rest home with 170 of its inmates, a hospital, and a railway polyclinic where [fol. 782] many sick and doctors were killed. Many civilians perished and hundreds of dwellings were destroyed as a result of systematic American bombings of Pyongyang and Seoul.

"American generals are trying to 'excel' one another in the maltreatment and barbaric annihilation of Korean women, the aged and the children. The name of the bloodthirsty Walker—a war criminal and the hangman of the Korean people—will indignantly be

branded by everyone in the world. Being in command of the U. S. land forces in Korea, he ordered all peaceful citizens to be driven behind the lines of the American army and their houses to be destroyed as the Hitlerite troops did in their time. All who show unwillingness to leave with the American army, Walker orders to be shot on the spot. Over three thousand of the non-combatant population, over three thousand peaceful citizens were shot in the towns of Pyongtaek, Chonju, Suwon and Unsang.

"Fearing the wrath and the resistance of the population of the barbarous measures of the interventionists, the Americans are driving the peaceful inhabitants into concentration camps. As reported by the 'New York Times' correspondent, 58 camps accommodating [fol. 783] 379,000 Koreans have been set up on territory under U. S. control. Their life is one of sheer misery.

"All these facts of barbarous annihilation by the interventionists of the peaceful Korean population reveal the bestial countenance of American imperialism striving to drown the whole world in blood for the sake of profits.

"Millions of honest people throughout the world protest against American savagery in Korea, resolutely defend the people of Korea and demand the expulsion of the American interventionists from Korea.

"At numerous meetings and rallies in Moscow, Leningrad, Kiev, Minsk, Kharkov, and Baku, working people in the Soviet Union have expressed their indignation against U. S. intervention in Korea and people in Czechoslovakia against the intervention in Korea against the savage annihilation of peaceful inhabitants. "Almost 8,000 protest resolutions from working people have reached the Czechoslavak Peace Committee and government organs in the Republic. 'Our affections and sympathies are for the Korean people' write the workers of the 'Solosushitsi' factory. 'By raising [fol. 784] labour productivity we shall help not only the fighting people of Korea but also the struggle of the working class in all countries for peace throughout the world.'

"The Central Council of the Amalgamated Trade Unions in Albania has resolved to hold a Solidarity Week of the Albanian working class with the Korean people from August 8 to August 15.

"'Our working class, like all our people' reads the address of the Trades Union Council in connection with the holding of the Solidarity Week, are profoundly indignant at the ruthless intervention of the aggressive forces of U. S. imperialism in Korea, which like the fascists, are bombing the peaceful inhabitants'.

"Despite the government's ban, the men of the rail depot in Milan discussed at a meeting a report on U. S. brutality in Korea. Vigorously protesting against the criminal annihilation of the Korean people, the workers of the depot decided to hold a brief solidarity strike with the fighting, working people of Korea.

"A Mighty voice of protest against U. S. savagery in Korea has been raised by the working people in China, Poland, Rumania, Hungary, Bulgaria, France, [fol. 785] Britain, the U. S., India, the Argentine, Cuba and other countries.

"The American imperialists think they can strike fear in the Korean people and halt its victorious march to liberation and independence by shooting down the peaceful population of Korea. It won't work! Hatred for the interventionists fills the hearts of the fighting patriots of Korea. They are inspired by the sympathy and solidarity of the working people throughout the world. The Korean people will hurl from their country the American interventionists whom no brutalities will help!"

Mr. Nelson: May I come close to the bench?

The Court: Come forward.

(At side bar.)

Mr. Nelson: I believe, your Honor has permitted serious error to be committed against me in this case.

The Court: In what way?

Mr. Nelson: Question No. 10 and—I mean 11 and 12, on the voir dire that we proposed the other day, dealt with [fol. 786] the matter of the jury's bias regarding the Korean

war and the Chinese Communist Party of China, and so forth—you struck out those questions, you didn't even permit us to ask those questions, your Honor—yet now you are permitting all this material to be brought in, and I have no guarantee that the jurors that are in the box were properly selected, because they were not permitted to answer those questions. Consequently, your Honor, I think it is a serious error. I don't know the meaning of——

The Court: A motion to withdrew a juror will be noted, and refused, and an exception noted.

(End side bar.)

Mr. Lewis: You may cross-examine, Mr. Nelson.

The Court: We will take a recess at this time. Take about 15 minutes recess.

(Recess.)

(After recess.)

The Court: Mr. Nelson, Mr. Lewis, come up, please. [fol. 787] (Discussion at side bar, off record.)

The Court: All right, Mr. Nelson, you may proceed to cross-examine the witness.

Mr. Nelson: Well, your Honor, let the record show that I haven't got a transcript by which to go and do it in the way I believe cross-examinations are conducted. And then I am at a disadvantage, not being a lawyer, being able to line up the different things—I have to do it as a layman. That is the best I can do.

The Court: Well, the record will show that.

Cross-examination.

Mr. Nelson:

Q. Mr. Musmanno, you testified, I believe, that you went to the Communist Party headquarters in the Bakewell Building, the first time, July 19th or July 18th?

A. I did.

Q. The Bakewell Building is right across the street here from the Court house?

A. That is true.

Q. And who went with you the first time?

A. Joe Becker and George Marshall accompanied me on [fol. 788] all occasions. I had been to the Communist headquarters before, but never to go in. As I say, I knew where it was and looked in, but the first time that I made any real visit was on July 19th. On July 18th, I went with Joe Becker and George Marshall—and you weren't there, nor was Mr. Onda there.

Q. Well, I didn't ask you that.

A. Very well.

Q. Mr. Musmanno, I just want to know who went?

A. George Marshall and Joe Becker.

Q. Before you went to the headquarters of the Communist Party on July the 18th, did you discuss with anyone that you were going to go there?

A. I don't think I did. On July 18th?

Q. Yes.

A. Oh, yes. Oh, yes.

Q. You discussed the matter of going to the Communist headquarters for what purpose?

A. To ascertain what was taking place there and to obtain literature which I knew they were selling and which I thought to be illegal.

Q. In other words, you did discuss the matter with some people before you went there, that you were going to go there?

A. That is correct. I discussed it with the Superintendent of Police, for one.

Q. I see. And it was your contention and belief that what [fol. 789] was being done in the headquarters of the Communist Party was illegal and seditious, is that correct?

A. That is correct.

Q. Before you got there?

A. That is right.

Q. Then when you got there you proceeded to buy some literature, right?

A. That is correct.

Q. You bought that literature from Mr. Dolsen?

A. Yes, on July 19th.

Q. On the 19th?

A. 19th, yes.

Q. Then, Mr. Musmanno, you being a judge and a lawyer, it appears you knew that something was being done in the

headquarters that was wrong and illegal, and you went there in order to inveigle on somebody else to commit a crime.

Mr. Lewis: I object to that question.

A. I did not. I went in and examined the headquarters, spoke to Mr. Dolsen, gave him a list of the books that I would like to purchase and obtain.

Mr. Nelson: Your Honor, I don't think that is the answer to my question.

Mr. Lewis: Yes, it is.

[fol. 790] The Witness: The answer is "no, I did not inveigle"—to use your word—"anyone into crime." They were committing a crime. That's the whole purpose of it, they were committing crimes. And I went over to observe and obtain this literature.

Mr. Nelson:

Q. Now, how long before you went to the headquarters of the Communist Party on July the 18th did you know that the headquarters was located across from the Court house? How long? I mean, how much, when did you first find out that the headquarters was located in the Bakewill Building?

A. When I came back from the war in 1948 I was flabbergasted to ascertain that the Communist headquarters was being run full blast right across from the Court house.

Q. And you did not know that the headquarters of the Communist Party was in that same building before you went to the war, did you?

A. No, I don't—I can't say that I did.

Q. And you don't know that the chairman of the Communist Party, who rented the offices in 1943, Mr. Forbes, went to the war and was killed in Italy, before you went to the war.

Mr. Lewis: That is objected to, your Honor.

A. Was this in 1943?

[fol. 791] Q. Yes.

A. I went to the war before 1943. So, therefore, I didn't know about it. And so far as this man having been killed in the war, that is no credit to you—you weren't in the war.

The Court: Just a moment, let's not get into an argument, one with the other.

The Witness: He introduced that subject.

The Court: We will permit a certain amount of cross-examination here and give the defendant a wide scope, but I will have to put some limit on it now as to the knowledge of the witness of the existence of the Party or any persons connected with it prior to the time it was visited by the witness—which I think is within the rights of cross-examination, within the limits of cross-examination.

Mr. Nelson:

Q. Well then it was not a secret to anyone who wanted to know, that the Communist Party had the headquarters in the City of Pittsburgh over a period of many years, was it? It was not a secret?

A. The fact that the offices were in the Bakewell Building would indicate——

[fol. 792] Q. Answer the question.

A. No, it wasn't a secret, but I didn't——

Q. No, it wasn't?

A. I didn't ascertain this until I came back from the war. As I told you, and as you yourself have now indicated, that the place was not rented until 1943, when I was already wearing the uniform of the United States Navy——

Q. Then it could be stated, could it not, that the headquarters of the Communist Party was known to most people who wanted to know, who wanted to check up in the telephone book over a period of years, that they were either in the Bakewell Building or some other place in the City of Pittsburgh? It was no secret hide-out, was it?

A. It certainly was a hide-out, a very damaging hide-out.

Mr. Nelson: I insist that he answer the question: Was it a secret hide-out.

Mr. Lewis: He is answering it.

A. It was in a public building, that would show——

Q. And everybody that cared——

A. Are you not going to allow me to complete my answer?

Mr. Nelson: Well, I mean to say, your Honor, I think he ought to answer the question.

[fol. 793] The Court: Read the question to the witness again, and let's try, on both sides, to not ask for conclusions, but limit ourselves to facts. Was it a public place? Was there a sign on the door? Was there a listing in the telephone book? And things of that nature, rather than ask for conclusions on the part of the witness, and venture conclusions.

Mr. Nelson: That is what I am trying to do, your Honor.

The Court: So we will have an understanding on it.

Mr. Nelson:

Q. There was no mystery as to the headquarters being in the Bakewell Building?

A. Well, I understand your question was that it was not a secret hide-out?

Q. Yes.

A. That phrase is made up on two words—it was a hide-out for crime, in my belief and estimation, and that is the reason I initiated this prosecution; but the rendezvous of this criminality was not a secret, the rendezvous was not a secret, but what took place in there was to a certain extent, [fol. 794] hidden from the people.

Q. Well, if it was hidden, how did you know before you went there with a list of books that you were going to buy that you were able to obtain in there, if it was a secret? How did you know you were going to be able to get them in there?

A. It was no secret that they sold books and had this seditious literature. That was no secret; I knew.

Q. In other words, the books that you bought there, you knew in advance you could get them; they were not a secret?

A. I didn't know the extent of the seditious literature, but I knew that some seditious books were sold, circulated, talked from and inculcated into the mind of those who wanted to become Communists. It is for that reason I felt it was high time that something was done about it, and I went over and got these books.

Q. But, at any rate, you had no trouble buying whatever literature you wanted in that place?

A. None whatsoever.

Q. Right.

A. None whatsoever.

Q. Even though your motive may have been suspected by the man that sold them to you?

A. It couldn't have been suspected, I told them why I was there. And he laughed.

Q. He sold you the literature, which means that the man [fol. 795] didn't think he was committing a crime, isn't that right?

A. No, because fools always regard themselves above the law. And he laughed when I told them they were committing a crime. They regard themselves above the law. And that is the reason they were so open in their distribution of this, which I regard to be seditious, literature.

Mr. Nelson: For the purpose of the point I wanted to establish, your Honor, the witness has admitted that he was able to buy anything that he wanted and that there was no restrictions placed upon him buying whatever he wanted in the place.

The Court: I think the answer indicates that.

Mr. Nelson: All right.

Mr. Nelson:

Q. Then you described yesterday, I believe it was, or the day before, in your testimony the appearance of the building, inside the rooms, and the pictures you saw on the walls, and so forth. You made mention of three pictures that were on the wall (William Z. Foster's, Eugene Dennis', and Elizabeth Gurley Flynn's pictures), and you made a particular point that there was a map of Russia in there which [fol. 796] the prosecution has brought in here. Was there anything else on the walls that you think this jury ought to know and that should be open to them all, aside——

A. Yes. Do you want me to tell about the other things?

Q. Aside from what you said, what else was there on the wall?

A. I know what you have in mind, and I will gladly tell the jury. There was a Gold Star emblem on one of the walls, which I regarded as a deception and a fraud——

Mr. Nelson: I object to that, your Honor. I think the man has no right to interpret that as being a deception.

The Court: I will sustain your objection as to the opinion of the witness, what he thinks it indicated. I will sustain your objection to that.

A. (Continuing:) I saw and made inquiries and found that it had nothing to do with Steve Nelson. It was above his desk. Steve Nelson did not serve in the war, nor did he have any relatives who was killed in the war.

Mr. Nelson: I object, your Honor. I think that is prejudicial stuff, and I move for a withdrawal of a juror and declare a mistrial.

[fol. 797] The Court: I will refuse your motion to withdraw a juror. I will ask the witness to limit himself to the questions that you ask him. The question was: What else was on the wall.

Mr. Nelson: That is a simple question. Even people in an elementary class could answer that.

The Court: On re-direct examination the District Attorney may develop further any information concerning any of these things, but I would ask that you just answer the questions as precisely as you can.

The Witness: I will gladly answer the question directly, but I don't want any unfair and improper inference to be drawn from that Gold Star emblem.

Mr. Nelson: I think it is up to the jurors to draw the conclusions, your Honor. I don't think it is up to you to put in their minds conclusions; they are intelligent enough to judge.

The Witness: He is endeavoring to infer that he had [fol. 798] something to do about the Gold Star; which he did not.

Mr. Nelson: I didn't raise the question about the Gold Star. I asked what was on the wall.

The Witness: Will you permit me, on redirect examination, to explain just how that Gold Star——

Mr. Nelson: I didn't ask you about the Gold Star. I asked you what else was on the wall.

A. That is one of the things that was on the wall.

Q. Well, state what things you saw on the wall?

Mr. Lewis: Quit shouting at the witness. I object to that, your Honor.

The Court: Quiet down.

A. I saw also a large map of the environs of Pittsburgh, and there was a map of the State of Pennsylvania; there was a map of the world—you are asking what was on the wall—and there were clippings attached to the wall, great numbers of them pasted on the wall——

Q. Well, we won't go through that, Mr. Musmanno; you [fol. 799] have answered that question as far as I am concerned at this moment. The question I wanted to know now, partially at least, and I believe that the right thing would be for the prosecution to bring in these things that he mentioned. He stated there were these maps. These other things, I think ought to be introduced as evidence.

Mr. Lewis: You would know where the clippings were and——

Mr. Nelson: Just a minute. It seems to me, your Honor, this man knows that in order to try any issue you can't show one slip and not the other.

The Court: Ask him if he knows where they are. If they are in his possession he will produce them.

Mr. Nelson:

Q. Have you got them—excuse me.

The Court: Ask the witness if he knows anything about them.

Mr. Nelson:

Q. Where are those items that you mention now? Who has them?

A. I suppose if they were retained, that they are with [fol. 800] the rest of the material that was taken from the Communist headquarters.

Mr. Nelson: Well, without wishing to delay the proceedings at this time, I request the Court that these items that were mentioned be brought into the Court room, and we will examine them at a later time as to the——

The Court: Ask the District Attorney to produce anything else he has that was taken there, or explain whether there were some things left there—I don't know. Possibly the witness does.

The Court:

Q. Was everything taken when the seizure warrant was executed?

A. Yes, everything was taken, so far as I am aware. Some of the clippings and pictures were so adhesively stuck to the wall that they could not be removed. Since then the walls were repainted.

The Court: Well, Mr. Lewis, if you and Mr. Cercone will search the records in the custodian's room and produce anything else that was taken from the building, that is still available.

[fol. 801] Mr. Nelson:

Q. Besides these maps that you described on the wall, and the other items, did you find any weapons in the headquarters?

A. Yes, the place was filled with weapons, because I regard these books as weapons.

Q. Just a minute now. What do we understand by "weapons"?

A. Weapons are articles which commit harm and damage upon others. And I regard these books as far more dangerous than any firearm.

Mr. Nelson: Your Honor, he knows, he is a judge, he knows the meaning of "weapons", that it means guns.

The Court: Were there any firearms?

Mr. Nelson:

Q. Any firearms or any such things as that?

A. I will answer that——

Q. I am listening. Your whole argument is that there was—that somebody was plotting revolution over there; then it is presumed that you would have to have some kind of weapons. Did you find any of those?

A. You were plotting revolution over there, and there is evidence, from my point of view, to substantiate that proposition.

Q. You didn't answer the question. Were there any firearms found there?

A. There were no firearms that I saw.

[fol. 802] Q. Was there anything of a nature that could be considered as a weapon with which someone could be with which bodily harm could be done to anyone?

A. You mean physical laceration upon the body of another?

Q. Yes, that's right.

A. Nothing, except a knife which I saw there, a large knife about that long (indicating).

Mr. Nelson: Well, I request that that knife be brought in, your Honor. Let's see what kind of a knife that was.

Mr. Nelson:

Q. Is it your interpretation that knife was meant to be used against onsfor violence or for attacks on humans?

A. Any knife can kill a person.

Q. And you say that knife that was found in there was for the purpose of using—to be used to do harm?

A. Oh, yes, they could use that——

Q. All right, you answered.

A. What they attempted to do would create far more harm than one knife, because they could destroy a nation with what they were plotting in those headquarters.

Mr. Nelson: I object, your Honor, to this man making speeches and not answer the question.

[fol. 803] The Court: The objection is sustained. We will strike the last remark of the witness from the record.

Mr. Nelson: And I move that the jurors be admonished to disregard this kind of speeches when the witness makes them.

The Court: I will admonish the jury, as I have in several instances before, that when we strike a matter from the record they are to ignore the part that is stricken. I will do so now and in the future.

Mr. Nelson:

Q. At the time when you went to buy this literature you were a judge in this County, is that right?

A. That is correct.

Q. And you have been a judge for many years?

A. That is correct.

Q. Let's say about 18 years, for the sake of

A. No, it is 20 years.

Q. 20 years.

A. Yes.

Q. Well, I was thinking of the other time.

A. Yes, very well.

Q. All right, in the 20 years that you have been a judge [fol. 804] in this County did you ever undertake to execute a search and seizure thing, in the physical sense, as you did in this case, in any other case?

A. I have never——

Mr. Lewis: That is objected to, your Honor.

A. (Continuing:) I never did execute a search and seizure warrant, and did not in this instance execute the search and seizure warrant.

Mr. Nelson:

Q. Well, did you appear physically whenever such arrests and so forth were made, when ordinarily police officials would have done the job, or the Sheriff—did you go down there to tell them how it is to be done?

A. No. Never did I encounter a crime of such magnitude as this one——

Q. Just a minute.

A. Allow me to finish.

Q. Just a minute.

Mr. Nelson: The answer is here, your Honor; he said he never did.

The Witness: Because I never encountered——

Mr. Nelson: That is all I wanted to know.

[fol. 805] The Witness: Because I never encountered a crime of such magnitude before—that is part of the answer.

Mr. Nelson: I move that be stricken, your Honor. That is a conclusion of this man, and part of his little stumping, your Honor.

Mr. Lewis: I make a motion that that be stricken out.

The Court: We will strike both.

Mr. Nelson:

Q. So, in all your years the local authorities, the police and the Sheriff and the State police were able to take care of such matters without your interference; but now it had to be done with you physically being present?

Mr. Lewis: I object.

The Court: Objection sustained. I think that is a little unfair.

Mr. Nelson:

Q. You went to the headquarters of the Communist Party, the first time, on July the 18th and 19th, and then again on August 31st?

A. On July 19th intervening, of course.

[fol. 806] Q. Yes, I said "18th, 19th and then the 31st."

A. Yes.

Q. That was just a little before you threw your hat into the election campaign for governorship of this State, wasn't it?

Mr. Lewis: That is objected to, your Honor.

A. No, that is untrue. I was not a candidate for Governor; I was a candidate for Lieutenant Governor and it had been announced many, many months before. And furthermore, my campaign against Communism began, not in 1950, but 25 years ago.

Mr. Nelson: Well, getting back, your Honor, I think the man is making a speech, not answering the question.

The Court: All right, strike the last remark as being unresponsive to the question.

Mr. Nelson:

Q. In other words, you timed your visit to the Communist headquarters with press photographers, with all the necessary trimmings around yourself, to come in there just in time to be able to hit the headlines to advance yourself as a candidate in that election campaign?

A. That is untrue.

Mr. Lewis: That is objected to, your Honor.

[fol. 807] A. (Continuing:) On July 19th, let me explain now—on July 19 no one knew that I had gone to the headquarters; no newspapers, newspaper men or photographers. The only ones who knew were the Superintendent of Police, Joe Becker and George Marshall, City detectives. The newspapers knew nothing about it, and nothing appeared in the newspapers until the following day when someone obtained information from Mr. Onda himself, not from me. Then on August 31st when I went over there, the newspapers were not informed by me.

Q. Not by you? By me, I suppose?

Mr. Lewis: I object.

A. Well, you came home at 2:30 in the morning, they arrested you at home after which the police notified the newspapers. And, consequently, you were news to the Pittsburgh newspapers and, therefore, it got into the papers. But I had nothing to do with informing the papers.

Q. Well, you have had training as a lawyer, you went to several universities, is that right?

A. That is correct.

Q. Right. One of those universities you went to was the University of Rome?

A. That is correct.

Q. During the time Mussolini was in power?

A. That is true.

[fol. 808] Q. In 1925, is that right?

A. That is right, '24 and '25.

Q. You left the United States and went there; weren't there good enough colleges here?

Mr. Lewis: I object to this.

The Court: Wait a minute.

A. You went to the Lenin University in Moscow, Mr. Nelson——

Mr. Nelson: I object, your Honor.

A. Weren't the United States universities good enough for you?

The Court: Just a moment.

The Witness: All right, he throws darts at me, I will throw some lances at him.

The Court: We will strike the question and the answer both. Now resume again without any personal reflections connected with it. Now you wanted to know whether he attended the University of Rome; you wanted to know whether that was during the period Mussolini was one of the people in a government seat in Italy; now you may answer that.

[fol. 809] A: I graduated from five universities in the United States, and then I took a post graduate course at the University of Rome to ground myself in the Roman law, which is the foundation of all civilized jurisprudence. It happened to be during the regime you speak of; I had no control over that. Americans went there freely.

Mr. Nelson:

Q. What would the average person think of a person that would leave the United States and go to the University of Berlin during the time Hitler was in power?

Mr. Lewis: I object.

The Court: Objection sustained.

Mr. Nelson:

Q. Wouldn't they be interpreted, or inclined to accept that kind of regime—and that is why you went there?

A: What would they think of your going to Moscow to study at the Lenin University?

Mr. Lewis: I object.

The Court: Objection sustained to the question.

A: (Continuing:) While Stalin was the director what would the average person think of that?

[fol. 810] Mr. Nelson: May he be permitted here not only to answer questions but to make speeches and go on?

The Court: The objection is sustained. The record will show that the remarks will be deleted from the record the question as well as the answer. Now please refrain from argument, one with the other. Put a simple question, or complicated, but relying on the facts here that you want elicited, rather than provoking one another into arguments.

Mr. Nelson:

Q. At the time that you went to study in the University of Rome, it was during the period that Mussolini was in power, during the period of which there was no democratic rights in the country; there were no elections allowed——

The Court: Now wait a minute. I am not going to get into the trial of Mussolini or Hitler or anybody else, or any philosophies concerning them, or what the situation was in the country. If you want to argue that to the jury later, you may, but you are not going to engage in the discussion [fol. 811] of that in cross-examination here.

Mr. Nelson: Your Honor, I have a very important point I wish to bring out. Not being a lawyer I don't know how to do so.

The Court: You are privileged to show motive on the part of the witness——

Mr. Nelson: But I can't do it if restrictions are placed on me, your Honor. I can only do the best I can. My conception is that he picked up the fascist bug when he was in Italy and, consequently, he is beginning to spread that same bug here in the United States.

The Witness: You picked up the Stalin bug——

The Court: Just a moment.

The Witness: You are polluted with the Stalin bug. That's what causes you to act in this peculiar manner.

The Court: Just a moment, gentlemen.

The Witness: Well, when he attacks me I have to counter-attack and defend myself.

[fol. 812] The Court: This is a Court of law——

Mr. Nelson: Let it be noted for the record that the jurors were laughing with the Judge at the time he was making his remarks.

The Witness: I didn't laugh. Let the record show that.

Mr. Nelson: When he was——

The Court: Adjourn Court until January 2nd at 9:30.

(Court adjourns at 12:20 o'clock P. M. until Wednesday, January 2nd, 1952, at 9:30 A. M.)

[fol. 813] TRANSCRIPT OF OFFICIAL NOTES OF PROCEEDINGS
January 2

Wednesday, January 2, 1952. Morning Session

Met pursuant to adjournment and the taking of testimony continues:

(At Side Bar):

Mr. Nelson: Your Honor, I haven't been able to get the transcript of Mr. Musmanno's testimony. I called the stenographers on several occasions and they told me that I couldn't get it until some time this afternoon, then I would get some of it; that makes it very hard for me to work out a line of cross examination because I am not a lawyer and this witness talks pretty fast and makes references to places, books and so forth, and it is hardly possible for me to keep check on, and makes it impossible for me to cross examine him. I wish the Court would do something about either getting me time enough to get this so I could go over it again, or at least, let's start today, I would appreciate it if the Court would urge the stenographers to get it ready and turn it over to me in time to be able to conduct a proper kind of examination as well as a [fol. 814] layman can do; I certainly can't do it like a lawyer but I would like to do it as well as I can.

The Court: I will ask the reporters to cooperate to the fullest extent to get the transcript out for you.

Mr. Nelson: I would like to make another request your Honor, regarding the transcript. It is rather expensive for me, it is fifty cents a page they are charging, I think the last time the Court reduced it to thirty-five, and since I haven't been working it is hard for me to keep up with these expenses. It is very unfair to me and I would appreciate it if the Court would see what can be done to reduce it so I could pay these men for their work but I can't pay a very high price.

The Court: I will ask them to make the rate that was made at the last trial.

Mr. Nelson: Your Honor, then I would appreciate it if

the prosecution would furnish me a copy of these documents with proper pages.

[fol. 815] The Court: The exhibits are right here and they are subject to your use.

Mr. Nelson: It wouldn't be difficult for them to furnish a whole list and proper pages so there will be no confusion. Otherwise it will confuse the record.

Mr. Cercone: It's all in the record itself.

The Court: The exhibit itself is in evidence; it has been offered. There was some complaint about it being marked before but since it's marked I think that should answer that last objection.

Mr. Nelson: One more thing about the indictment. I have gone through these pages that are under Point 12 and naturally I want to confront the prosecution and show distortion and misinterpretation on every one of these points, however I didn't have time enough, or didn't have the exhibits available. There are three places that I can't locate in the literature that was introduced; one is on—two of the last pages, that's on the last page there is a ref-
[fol. 816] erence here which I can't locate, and on this next to the last page there are two which I couldn't locate.

The Court: You mean not supported by the testimony that has already been offered?

Mr. Nelson: That's right.

Mr. Lewis: There are two of the books we didn't offer that are also in the indictment; it probably came from one of those. There was one book, at least, I know wasn't offered.

The Court: When the Commonwealth's case is finished, if there is anything unsupported in the indictment, unsupported by evidence, you have a right then to move for a demurrer as to that indictment.

Mr. Nelson: I'm not sure about whether or not my objections raised here cover all the grounds that I might have, legal grounds.

[fol. 817] The Court: Any adverse ruling to which we grant you an exception, that forms the basis of your appeal. I don't know in any particular instance whether you have asserted all the grounds for the objection——

Mr. Nelson: Will the Court grant me all the grounds that I don't know about, not being a lawyer.

The Court: There are many times when I don't know what all the grounds you might have are, so I couldn't make any general ruling on that.

Mr. Nelson: I believe Judge O'Brien did grant us that.

The Court: He granted you an exception without request——

Mr. Lewis: He granted them all the grounds because of of the fact there was too much argument when an objection was made, and then Mr. McTernan would get up and give a long talk, and to cut that out he gave them an ex- [fol. 818] ception on all grounds that he might possibly have.

The Court: Since the defendant here is not represented by counsel I think it would be fair to him to allow him the same privilege, any grounds which may be associated will be considered has having been asserted as the basis for the objection, and, of course, in every instance when there is an adverse ruling an exception will be noted without request.

The Court: Gentlemen, there is just one thing I might ask your cooperation in and also your witnesses, that is, try to avoid arguments between counsel and the defendant, and between the defendant and witnesses. Each phase of this case has its proper place. Argument is proper with the jury to the fullest extent, but not with witnesses. Judge Musmanno particularly is prone, of course, to answer things which you, as the District Attorney and representing the Commonwealth might think are improper questions and you should ask him to refrain from answering questions if you think they are objectionable until you have a ruling on them. I think we can avoid a lot of the argu- [fol. 819] ments which we got into at the last session. In other words, if there are proper objections to any questions put by Mr. Nelson here, instruct Judge Musmanno, or any other witness, to refrain from answering them until you get a chance to object and I have a chance to rule on them. When the witness undertakes to answer a question before your objection is entered and I have a chance to

rule on it, then it results in an argument between the interrogator and the witness.

Mr. Lewis: We will try to hold that down.

Mr. Nelson: I would request that this witness be treated like every other witness.

The Court: That is the reason I am doing this——

Mr. Nelson: He hasn't behaved like that; he's taking advantage of the fact he's a Judge and that he knows the law, and takes advantage of me in this situation.

The Court: Well, I am trying to avoid all of that, Mr. [fol. 820] Nelson. Limit your questions to fact alone rather than arguments and I think we will get along much better.

(End of side bar.)

Michael A. Musmanno, recalled, resumed his testimony as follows:

The Court: Continue with your cross examination, Mr. Nelson.

Cross-examination (Continued).

Mr. Nelson:

Q. Last week when the session adjourned, I asked you some questions about the time you spent in Italy while you were studying law in the University of Rome. Just to set things in focus again this morning I want to round out those questions from your Honor. You went there in 1925, I think you testified?

A. No, 1924.

Q. That was soon after the Mussolini regime was established?

Mr. Lewis: I object to this line of questioning as being incompetant, irrelevant and immaterial to the issue.

[fol. 821] Mr. Nelson: Your Honor, I believe it is very relevant because I want to show motive and bias on the part of this witness which I can trace back——

The Court: Well, we will permit a certain amount of questioning. We are not going to try, as I said last week, any witnesses or any other persons not involved here, but to show any interest, any motive or bias on the part of the

witness we will permit a limited amount of questioning on that basis.

Mr. Nelson:

Q. How long did you stay in Italy at that time?
A. Well, I didn't answer the preceding question.

The Court: Read the question.

(Question read.)

A. The Mussolini regime, as you call it, came into power I think in 1922. I was interested only as one would be interested in what was happening in the world——

Mr. Nelson: Your Honor, I object to this long explana-
[fol. 822] tion. He answered the question. He did go there after Mussolini came into power, that was the question, and——

The Court: Well, the witness, of course, has a right to express himself as to his bias, or interest, or motive here.

Mr. Nelson: Well, let him do it later on when he goes over to the D.A.

The Court: All right, we will ask him to just answer the question.

A. (Continued:) Well, you are creating the inference I went there because Mussolini was there and I had nothing to do with that at all——

Mr. Nelson:

Q. I'm not making any inference——
A. —I went there as a student.

The Court: All right, gentlemen——

Mr. Nelson:

Q. I'm not making any inference——

[fol. 823] The Court: Gentlemen, gentlemen——

Mr. Nelson:

Q. Let the jury draw its own conclusion——
A. Well, you are making a very obvious inference that I was in some way——

The Court: Mr. Nelson, you will be seated. And Judge Musmanno, I will ask you to refrain from any——

Mr. Nelson: I object to this. In what respect did you ask these men to——

The Court: Because I have asked you both to respect the order of this Court to remain silent and you won't respect the order of this Court to remain silent but you both get into arguments immediately and I will have to exercise the power of this Court in both connections. Now, if you will sit down until I adjust this matter, and not engage in argument between yourselves, we will get along fine. If not, we will have to take other means concerning it. Will you be seated, please——

[fol. 824] Mr. Nelson: May I approach the Side Bar?

The Court: No, sir, you may not at this time.

The Court: Read the last question.

(Question read.)

A. I went to Italy in 1924, matriculated in the University of Rome, studied there and graduated from the University of Rome in 1925, and then returned to the United States after having obtained my Degree of Doctor of Jurisprudence, at the University of Rome, having as my preceptor a man who was then regarded as the leader of the——

Mr. Nelson: I object to this line of answer.

Objection overruled.

Exception noted.

A. (Continued:) —having had as my preceptor, Enrico Ferdi, who was regarded then as one of the greatest criminologists in the world. In view of the fact that I intended to practice criminal law, I felt it was highly desirable to have a preceptorship and instruction from this celebrated man who had written about twenty books on criminal law and was known as the Father of the Positive School of Criminology. After graduating in that way I wrote a series [fol. 825] of articles for the American Bar Association Journal, on criminal law, as studied at the University of Rome, which had nothing to do with Mussolini.

Mr. Nelson: Your Honor, I would like to have the question repeated to see what the—where the answer went for

whether he answered the question. I asked a simple question, whether he went to Italy after Mussolini came to power, and the answer could have been either "Yes" or "No", that's the way any witness would have answered it, isn't that right, your Honor?

The Court: Very well, what part of the answer do you want stricken from the record?

Mr. Nelson: I want all of that stricken after the words "Yes, I went to Italy in 1924," or whatever the words were.

The Court: We will direct that the part of the answer be stricken from the record concerning the purposes of the witness in attending the University, as unresponsive to the question.

[fol. 826] Mr. Nelson: In that case, your Honor, will you please keep this witness to proper answers.

The Court: I will ask that you limit yourselves to short questions and answers.

Mr. Nelson: I did. My question was short and I don't want to have the people here hanging on my neck——

The Court: We have granted your motion to strike it out, so proceed.

Mr. Nelson: It is intimidating me, your Honor.

The Court: No, it isn't intimidating you. As long as the Court is here to concern itself with this matter you needn't fear intimidation on the part of anyone.

Mr. Nelson: That was done this morning, your Honor. I want the record to show——

The Court: The record shows everything that is going on here. Proceed with the cross examination.

[fol. 827] Mr. Nelson: —before you warned me to sit down——

The Court: The record shows everything that's going on. Proceed with the cross examination.

Mr. Nelson:

Q. Well, Mr. Musmanno, at the time you went to study in Italy, went to study Roman law, which couldn't have been studied anywhere else, I suppose, did you have any difficulty in obtaining a visa?

Mr. Lewis: This is objected to.

Objection sustained.

Exception noted.

A. I had none whatsoever. Why should I?

The Court: The objection is sustained.

A. (continued) And I notice the sneer on your lips when you said "Roman law".

Mr. Nelson: Your Honor, I object to your ruling.
[fol. 828] The Court: You have an exception on the record. The objection is sustained.
Exception noted.

Mr. Nelson:

Q. Did you have any difficulty with the Fascist regime when you were there while you were a student?

Mr. Lewis: This is objected to.
Objection sustained.
Exception noted.

A. I had this difficulty, that I made a speech against Mussolini and the Fascist regime in the University of Rome and was considerably criticized——

The Court: Judge Musmanno, please, if I may interject myself here, when an objection is made please recognize it and don't answer. The objection has been sustained and you do not need to answer that question.

The Witness: I'm sorry.

[fol. 829] Mr. Nelson:

Q. Were you expelled from Fascist Italy?

Mr. Lewis: This is objected to.
Objection sustained.
Exception noted.

Mr. Nelson:

Q. At that time when people went to Italy, it was true, was it not, if they managed to get into the country if they were opponents of the regime they were either thrown in jail or they were kicked out of the country, weren't they?

Mr. Lewis: This is objected to.

Objection sustained.

Exception noted.

Mr. Nelson:

Q. Mr. Musmanno, I believe you testified, I'm not sure whether it was the other day or at the previous testimony, but if I'm wrong I may be corrected on that, but I think you stated that you were also a correspondent for certain newspapers while you were there, were you not?

A. That's true.

Q. What papers were they? Could you mention them briefly, please:

[fol. 830] A. Well, I represented the North American, it has since gone out of print, in Philadelphia——

Q. North American. Was that the name of the paper?

A. Yes, it was the North American Review; the Philadelphia Ledger; and I did some free lance writing.

Q. Did you write for any Italian papers in this country, by chance?

A. No.

Q. Were you an accredited correspondent of these papers to the—while you were there?

A. Yes, they gave me a document that indicated that I represented them, and with these documents I was able to cover the sessions of the Chamber of Deputies and the Italian Senate, and the meetings of the League of Nations which took place in Rome while I was there.

Q. Are any of these papers available, or these articles you wrote, are they available now——

A. Not that I know of.

Q. —to you?

A. Not that I know of.

Q. They are not available?

A. Not that I know of.

Q. You don't suppose they would be in the Library where they keep a file of these papers, do you?

A. Not that I know of.

Q. So, as a reporter, you attended various functions that

[fol. 831] occurred in the country which were of interest to you?

Mr. Lewis: This is objected to.

The Court: Well, it is asking a repetition of a previous statement. Objection overruled.

A. Yes, I attended various functions, I remember——

Mr. Nelson:

Q. That's all. That's all——
A. I covered musical——
Q. That's all.
A. Well, listen, you can't shut me off when you put a question.
Q. You aren't asking the questions, Mr. Musmanno——
A. No, but I am answering questions in which you put very obvious inferences——

The Court: All right, gentlemen, gentlemen, I must exhaust my patience——

Mr. Nelson:

Q. You answered my question. What are you getting so hot about?

Mr. Lewis: I object to that statement and ask that it be stricken from the record.

[fol. 832] The Court: Mr. Nelson, will you please respect this Court. Now, I am going to tell you all that there is one thing that is more important in this matter, the personal feelings of the witness or of the defendant, that the civil, political and constitutional rights of the parties is observant to it, and that is proper decorum in this court room. Now, this is a Court of Law and is going to be conducted as a Court of Law, and in orderly fashion, and I am here and I am going to see that it is so conducted. Now, I will have you respect that statement, because if you don't I will have to take means to see that it is respected. Now, proceed. Now, I don't want any more arguments between counsel and witness, or witness and counsel, or between counsel and the defendant.

Mr. Nelson: Your Honor, I'm not a lawyer, I can only ask the questions as best I can, and I believe that was a perfectly legitimate question and the man can——

The Court: When you get into arguments with the witness you are not respecting the order of this Court, Mr. [fol. 833] Nelson, and when I repeat myself several times to get your attention you are in contempt.

Mr. Nelson: Well, I take exception to your——

The Court: Well, you can take all the exceptions you want. We will note them on the record.

Mr. Nelson: This is all being done because I have no counsel here and because you will see that I ask the questions properly and I don't like to be taunted here——

The Court: If you will address your complaints to the Court you will get redress, but when you address them to the witness you will be in contempt.

The Court: What was the last question?

(Question read.)

Mr. Nelson:

Q. Did you or did you not attend any sessions of the Chamber of Deputies? The answer can be "Yes" or "No".

[fol. 834] A. I attended many sessions of the Chamber of Deputies.

Q. Did you attend any sessions of the Italian Federation of Labor?

Mr. Lewis: That is objected to.

Objection overruled.

A. I don't know that I did. I covered generally what a Foreign Correspondent would be interested in covering for an American newspaper. I don't want you to get the impression that I was such a correspondent that sent in a daily story; I was only there for something which might be a colorful event which the American Newspapers might be interested in reproducing. So I didn't limit myself to polifical functions; I covered concerts, I covered scholastic activities, anything of an unusual character, for American reading.

Mr. Nelson:

Q. So as a reporter to whatever functions you attended at the time you must have had available to you the permit from the Police Department there—right?

Mr. Lewis: I object to the question, or object to it in the form of whatever it is. It isn't a question and I object to it.

Objection overruled.

[fol. 835] The Court:

Q. Did it require any concession from the Government or Police Department to attend these functions?

The Court (to counsel): That's what you want to know, isn't it?

Mr. Nelson: If he had any kind of permit from the Police Department, like all press reporters have, I believe, in most countries.

Objection overruled.

The Court: You may answer the question.

A. The card which I carried in my wallet was sufficient, and then many of these things were just open to the public; if I went to a concert hall I certainly didn't need a permit from the police or anyone else.

Mr. Nelson:

Q. Naturally not: I didn't ask you about the concert halls, Mr. Musmanno, I asked about these Fascist functions like the Chamber of Deputies, anyone to get into those places had to have a permit from the Fascist police, had they not?

A. No.

[fol. 836] Q. You mean it was open to the public?

A. Oh, yes. I went into the——

Q. Anybody could attend?

A. Yes, so far as I was able to ascertain.

Q. You mean opponents of Mussolini had a right to attend those sessions?

A. Anyone could go the Chamber of Deputies, it was

open; I have a card which admitted me to the press gallery. I could have gone into the——

Q. All right. You answered the question——

A. —into the public gallery if I had wished.

Q. The fact is, was it not that these permits were carried by all reporters and that they were issued by the Fascist Cheka, which means their secret police, is it not, Mr. Musmanno?

A. No, when I arrived I had this letter from the two newspapers I have mentioned and I went into the office of the official in charge of accommodations for reporters in the Chamber of Deputies, and I showed him this letter and he got out a card for the press and signed it, stamped it and gave it to me and that's all there was to it.

Q. Well, Mr. Musmanno, can you name—you say it was all free, everybody could attend at that time, the sessions. Can you name any prominent opponents of Mussolini who were able to attend those sessions?

A. Yes, all the newspapers that were opposed to Musso- [fol. 837] lini were represented, they all got in; in fact, wrote articles daily on what was happening in the Chamber of Deputies.

Q. It is a fact, isn't it, Mr. Musmanno, that when you were there it was two years after Mattioti, the Socialist Deputy, was murdered by the Fascists and that opponents of Fascism couldn't attend any Fascist functions; isn't that true?

A. No, it isn't true. Mattioti was abducted and killed in 1924, so it was not two years before, and the Chamber of Deputies had its sessions, and I don't want you to think I am here defending what happened during the Fascist regime, I was there as a student——

Q. I am asking the questions and you have answered the question. It is true, is it not, Mr. Musmanno, that at that time a prominent opponent of the Mussolini regime by the name of Nitti was in the prison fortress of Mussolini on the Island of Lipari?

Mr. Lewis: This is objected to as being incompetent, irrelevant and immaterial.

Objection sustained.

Exception noted.

Mr. Nelson:

Q. The opponents of the Fascist regime were being thrown in prison, but you had no difficulty getting in there, did you, to attend these sessions of the Fascist regime?

[fol. 838] Mr. Lewis: This is objected to as being incompetent, irrelevant and immaterial.

The Court: The objection is overruled. Insofar as it affects the witness, we will ask him whether he had. He has been asked whether he had any difficulty several times but we will permit it to be asked again.

A. I had no more difficulty than the representatives of the New York Times, or the Herald Tribune, the Associated Press, the United Press, all of whom I know personally; Mr. Matthews, one of the greatest correspondents of the Associated Press was there, had no difficulty getting in or out. I was a student and I was a part time reporter; I had nothing to do with the politics of the nation whatsoever.

Mr. Nelson:

Q. That was at a time when it was known to the Fascist regime, was it not, that you made that famous speech that saw the light of day 17 years later and was printed in the Angot paper when you became Governor—or, rather, an Angot official.

A. Is that a question or a speech?

Mr. Lewis: I object to that.

[fol. 839] Mr. Nelson:

Q. Well, you understand what I mean. If you don't I will reframe the question.

A. I get your question and since you put a long question I necessarily will have to give an explanation which may take more than merely a "Yes" or "No" answer. In 1925 I made a speech at the University of Roine in which I called attention to the many evils of Fascism. I was teaching English to the Italian University students at the same time that I was studying Roman law and other cognate subjects, and I took as my subject one day in this English class

"Fascism and Mussolini." I criticized Mussolini severely and criticized the Fascist regime severely, and as a result of that criticism I was called before the Director of the University and I was informed that I had violated the hospitality of the University in criticizing the leader of the Government at that time. I indicated that this was merely an observation of mine which, of course, as an American I felt I had the right to make, and after my explanation they were entirely satisfied. But at the next session of my English class many of the students got up and questioned me and some of them were quite angry and others were very satisfied with the statement I had made. And there were copies of this speech, because I had reduced it to writing in view of the fact that I anticipated there might be some difficulty and I didn't want my remarks to be left to a mere chance recollection on the part of those who had been there. You refer to 17 years later. 17 years later I [fol. 840] entered Rome with the American troops with General Clark, and one of the soldiers happened to meet a student who was present when I made this speech against Mussolini, and he had a copy of this speech which then was yellow with age, and he turned it over to a newspaper and the newspaper reproduced this speech.

Q. All right. Fine. So you made a speech against the Mussolini regime while you were in Italy, that's the essence of what you said.

A. That's right.

Q. Now, Mr. Witness, when you came back to the United States, not while you were in the University of Rome, there was a letter that appeared in the Pittsburgh Press in February, some time in the month of February, a man wrote a letter to the Pittsburgh Press——

The Court: What year?

Mr. Nelson: 1925, your Honor. That was after Mr. Musmanno came back from the University where he said he made a speech against the Mussolini regime.

Mr. Nelson:

Q. (Continued:) ——and this man wrote a letter to the paper, and it's a brief statement——

[fol. 841] The Court: I don't know whether this witness has any knowledge of that letter.

By Mr. Nelson:

Q. Do you know about this letter, Mr. Musmanno?

Mr. Nelson: I believe I can assume that he knows because this matter was discussed at the last trial——

The Court: You will have to determine whether he does or does not. You will have to ask him that question.

Mr. Nelson: I'll show him a copy of the letter.

A. I was in Italy in February 1925. You are referring to 1926.

Mr. Nelson:

Q. Yes, I stand corrected.

(Witness handed paper.)

A. Yes, this is a letter from someone else to the paper.

Q. Right—and in which you wrote the other which I will follow up with——

A. Well, I'm not familiar with the exact phraseology of [fol. 842] that letter. I know I replied to a letter and I presume this could have been it, but I won't certify that that is correct in every detail without actually seeing the newspaper copy.

Mr. Nelson: Well, your Honor, it would be too much trouble to subpoena the newspaper now, but if your Honor will permit——

The Court: Well, submit it to the District Attorney and if there is any way of him confirming it without bringing in the newspaper possibly he will be willing to do so.

Mr. Lewis: There is nothing here which would indicate who wrote this letter. It's signed "XYZ". Unless there is some foundation laid I will object to it.

The Court: Well, the question is whether that is a true copy of the letter which appeared in the Pittsburgh Press and which was replied to by the witness.

A. I'm perfectly willing to say that that is the general tenor of the letter that I saw here when it was presented at the other trial.

[fol. 843] Mr. Nelson:

Q. Now, Mr. Witness, in this letter this man who did not sign his name but called himself "XYZ" in the Pittsburgh Press, he has stated the following: "I am indeed surprised at the ignorance among the Americans concerning Mussolini's regime in Italy. It is true that the Cheka has replaced the police in Italy." The Cheka is the Fascist Secret Police—I mean was the Fascist Secret Police, was it not?

A. No.

Q. We'll get to that later——

A. That's a Russian term.

Q. "—has replaced the police of Italy. The Cheka is an organization of Fascisti and their sympathizers and is an official part of the Mussolini government. The main duty of the Cheka is to defeat and arrest any person or persons who in any way expresses the slightest doubt as to the perfection of the present Mussolini regime. The true function of a police system, to protect the citizens from violence, has been neglected. Any person, according to the high-handed methods of Mussolini, may be arrested on any charge whatever, detained in jail for any length of time, without the right of habeas corpus, and later dismissed without an apology. Mussolini has openly declared that all his opponents deserve the 'bastonada'"—I'm not sure I know the meaning of that, will you help me on that, the meaning of the word 'bastonada'?

A. Well, the word is misspelled. It perhaps refers to [fol. 844] 'bastonato", which means beating or whipping with a cane or club.

Q. "Let us see what a terrible ordeal the bastonada really is. The accused is first arrested on a breach of free speech. He is then placed in charge of a specially trained officer. This officer, through several weeks of practice, has developed an accurate aim by hurling a bludgeon at the jaws of a 'dummy'. The bastonada simply means that a human being replaces the dummy. And still Mussolini is hailed as progressive. The Cheka has committed several heinous

crimes within the past few years. In a public speech, Mussolini has assumed 'the full moral, historical and political responsibility of the acts committed by the Cheka'. Could a ruler take a more definite stand as to his belief in methods of government? I am sure that the American people have nothing but their intelligent disapproval of any government which favors a criminal organization as an instrument of government." Now, in reply to this letter, Mr. Musmanno, it is true, is it not, that you wrote an answer, and that was after you stated here on this witness stand that you made a speech against the Mussolini regime for which you were called by the Director of the University and you were sort of called down by him, is that right?

A. Yes, but I also criticized the Bolshevists and the Communists who initiated——

Q. That is not the question, Mr. Witness. The question is, I want the jury to understand that your contention here [fol. 845] is that you made a speech against Mussolini which was printed and kept in secret sowewhere by some student and it was mellow with age; however, the fact is and you admit you wrote the following——

A. I didn't say that that letter had mellowed with age, it wasn't wine, I said it yellowed with age. There's some difference between mellowing and yellowing.

Q. I'll accept your correction——

The Court: The witness hasn't seen the reply.

(Paper handed to the witness.)

A. Yes, I wrote that letter.

Mr. Nelson: It's a very brief one, your Honor, I'll just straighten this point out, I would like to read it to the jury.

Mr. Nelson (to the jury): This was in the Pittsburgh Press, February 20th——

Mr. Lewis: This is objected to. That's a thing that is not in evidence.

Mr. Nelson: I'm sorry, Mr. Lewis. I'll let you see it. [fol. 846] Mr. Lewis: I don't have to see it. It's not in evidence.

The Court: Well, technically offer it in evidence; offer the first letter and the second letter in evidence and before you read it.

The Court: Any objection to the offer?

Mr. Lewis: I object to the offer of both of these exhibits as being incompetent, irrelevant and immaterial.

Objection overruled.

Exception noted.

The Court: You may read it to the jury.

Mr. Nelson (to the jury): The letter starts out in quotes: "Light is turned on Mussolini and Italy. Editor of the Press: The Statements made by XYZ in the Press February 17th reveal as much knowledge of Italian affairs as his signature reveals his identity." Because the man signed himself "XYZ" I suppose that's a reference to [fol. 847] that. "XYZ says Mussolini in a speech assumed the full responsibility of the acts committed by the Cheka - - -" that means the Secret Police - - - "I know the speech that XYZ refers to as I was in the Chamber of Deputies when it was delivered January 3, 1925. Instead of acknowledging responsibility for the Cheka, Mussolini that day emphatically denied the existence of a Cheeka in Italy. What he did accept was the 'full moral, historical and political responsibility for the Revolution of 1922,' which had nothing to do with the Cheka, but which was simply the turning out, without bloodshed of the old government and the installing of the new. This Revolution succeeded the heroic work of the Fascisti, the heroic work of the Fascisti in driving Bolshevism from the Country - - -"

The Witness: Repeat "Bolshevists" just as you repeated "heroic work of the Fascisti"——

Mr. Nelson (to the witness): That's up to you to do that.

The Court: Just read it as it is and don't repeat——

[fol. 848] Mr. Nelson: I just lost the line and picked it up again.

The Court: All right.

Mr. Nelson (continuing reading to the jury): "When the Fascisti began their purification of Italian soil, purification of Italian soil, two thousand——"

Mr. Lewis: Is that in there twice? I object to the way he is reading this.

The Court: Read it as it is, as you asked counsel to read.

before, without emphasis, without repetition, without inflection.

Mr. Nelson (continuing reading to the jury): "After Bolshevism had been crushed Mussolini gave strict orders for cessation of violence, and such sporadic acts of violence which occurred since were severely punished."

Mr. Nelson:

Q. You wrote this letter?

A. Let's see that, please.

[fol. 849] (Letter handed to the witness.)

A. You repeated some phrases and omitted some completely. Here's a sentence you did not read in its entirety: "When the Fascisti began the purification of Italian soil two thousand communes were flying the Red flag."

Mr. Nelson: Your Honor, I believe the record will show I read that. See if I read that or left that out.

Mr. Lewis: Certainly you left it out.

The Court: Well, let the reporter check it and see if there are any omissions.

(Testimony read.)

A. The sentence which was not read in its entirety is as follows: "When the Fascisti began the purification of Italian soil two thousand communes were flying the Red flag."

Mr. Nelson:

Q. Well, is it your contention, Mr. Witness, that Mussolini gave strict orders for cessation of violence after that date?

A. On this day that he made the speech? I wrote that letter as a historian; that is to say, I was corecting the mis-[fol. 850] statement which appeared in that QYZ letter. I was there when this speech was delivered and I merely corrected him.

Q. And you added after that "and such sporadic acts of violence which occurred since were severely punished." Is it your contention now that the Mussolini regime deserved this kind of defense by you who claimed to be an opponent of the Fascist regime?

A. This letter was written in February, 1926; much happened after 1922 and I was calling to the attention of the readers of the Pittsburgh Press in which the preceding letter had been written, that in 1922 two thousand towns or communes, which includes large cities, were flying the flag of Bolshevism. The Bolshevists or Communists had gone into these towns, had taken over their factories, had beaten up the superintendents of these factories, had beaten workers, in many instances had taken the superintendents and managers of the factories out into the woods and beaten them, in some instances had killed them in cold blood; they had taken the Mayors of these towns and had held them as hostages until they could take over other factories and mills. There was a reign of terror in Italy, and there were some young men who undertook the defense of their country against this tidal wave of godless, atheistic, terroristic Bolshevism, and it was with regard to these young men that I addressed a word of commendation. I said they were heroic in driving out the Bolshevists, for as much as I disliked Fascism and as much as I criticized many of the acts [fol. 851] of Mussolini and the Fascist regime always as a student and simply as an observer, I despised Communism, I hated Bolshevism with every corpuscle in my soul, and that was the origin of my fight against Communism which has continued during the 25 years which have passed since then.

Mr. Nelson: I move to strike, your Honor, as unresponsive and as a stump speech by this witness.

Mr. Lewis: Mr. Nelson asked him to explain this article, in so many words, and that's exactly what he did, and I think it was very responsive to the question he put to the witness.

Motion refused.

Exception noted.

Mr. Nelson:

Q. Now, Mr. Musmanno, who were these young men you talked about just now? Weren't they the Fascisti, the very people who formed the core of the Italian Army and the Police; and the very people who destroyed Democracy and

broke down Unions, and the very people who declared war on the Ethiopian people, and the very people who declared war on Spain and on the United States; weren't those the [fol. 852] young people you are talking about?

A. The young men I am speaking of were returned soldiers from World War I, who were spat upon by the Communists and Bolsheviks; who were treated with contumely and degradation, and who saw their homes being invaded by these Reds, by these unwashed, indecent Bolshevik Communists, who in many instances actually took over homes that were not their own. In Milan they established a reign of terror. Italy was not safe for Italians, for Americans, or for anybody. And these young men took it upon themselves in those early days to drive out these Communists who had terrorized Italy and other nations in which they finally took over control. Those were the young men that I spoke a word of commendation for, and this had nothing to do with the Fascist Party as such; I was thinking of the young men——

Q. They were the so-called "Black Shirts", "Italian Black Shirts"?

A. Some of them were later called "Black Shirts".

Q. Those were the guys—those were the people who went out and threw the workers out of the shops when they had sit-down strikes in them—right? Workers had one recourse——

The Court: Wait a minute, now. One question at a time. Read the question.

(Question read.)

[fol. 853] A. The young men who I commended—and I'm happy that I did so—were those——

Q. You are happy that you did so?

A. Yes;—were those who attempted to destroy the dragon of Bolshevism which was breeding fire and violence in all parts of peaceful, tranquil Italy that wanted to rehabilitate itself after the severe losses of World War I.

The Court:

Q. Were they the people that put the sit-down strikers out of the shops?

A. I have no knowledge of that episode.

Mr. Nelson:

Q. Were there any Unions functioning freely in Italy at the time when you were there?

A. I don't know that I have an accurate recollection of whether there were or not.

Q. All right, you don't know——

A. I do know that later Mussolini attacked the Labor Unions, which I unhesitatingly condemned.

Q. You know that this episode you speak about, when the young Fascisti threw out the so-called communes, that it was—there was an effort on the part of the workers to organize Unions and to fight for an increase in wages [fol. 854] and the employers said, "These are Reds. Get them out of the factories", and you rejoiced with the young Fascisti because they were turned out of those factories: isn't that true?

Mr. Lewis: This is objected to for two reasons: First, because it is incompetent, irrelevant and immaterial, and, second, because it is a speech on the part of Mr. Nelson.

The Court: There is only one reason I am permitting it and that is to show any bias, prejudice, motive, or anything that affects the credibility of this witness. I am not going to extend it very much beyond this point, Mr. Nelson, or permit you to extend it much beyond this point. I think you interrogated the witness sufficiently to determine whether he has any ulterior motive himself, or any bias or prejudice. I will let him answer this question but beyond that I think you should refrain from asking any more questions concerning the Fascist regime in Italy, or any other political organization in the world.

A. When, in that letter, I commended the young men [fol. 855] for what they did in driving the Bolshevists out of Italy, I was not referring to any economic problem where workers were seeking increased wages: I was referring only to the unconstitutional, inhuman, violent act of seizing public and private property without compensation and with terroristic methods. These Reds, under direct orders from Moscow, went into factories and mills, turned out the officials and beat up the workers, and then flew the Red flag over the factories and over the City Hall of the towns:

they had not been elected to the City Hall; they did not elect Mayors and Councilmen; just by sheer force and violence entirely in keeping with the Soviet method they took over this municipality, and that mill, and that home, and these young men that I refer to rebelled these invaders, and it was only in connection with that that I spoke a word of eulogy in behalf of these youths who had just returned from fighting World War I, in which war Italy was the ally of the United States.

Q. All right, so we don't belabor the Court about Italy too long, let me ask you a question: Did you know of an instance in the Pittsburgh area where, when the workers went on strike, they were called "Reds" by the employers?

Mr. Lewis: This is objected to as being incompetent, irrelevant and immaterial.

Objection sustained.

Exception noted.

[fol. 856] Mr. Nelson:

Q. You do know, Mr. Musmanno, don't you, that many a time when workers went out to organize Unions, right here under our noses where we could see what's happening, that they were called Reds?

Mr. Lewis: That is objected to as being incompetent, irrelevant and immaterial.

The Court: The objection is overruled. We will let that question stand.

Mr. Nelson:

Q. Now, you tell me——

The Court: Just a minute.

A. Do you want me to answer your question? He overruled the objection which means you have the right to——

Mr. Nelson:

Q. Oh, I'm sorry.

A. I have no responsibility to answer for anyone who calls another a "Red", but I do have the responsibility,

and I gladly undertake it, of saying that those who seized without warrant of law and without any responsibility whatsoever, the factories and the mills in Italy, they were Reds. They were Reds because they flew the flag of Red [fol. 857] eland, which is Moscow and Russia; they were Bolsheviks; they were Communists; they were actually Reds; and that's what we referred to originally in the letter.

Q. All right. You know, don't you, that when the workers in the automobile industry in this country wanted to organize a Union that they had to resort to what was known as a sit-down strike and they stayed in the factories until the employers finally decided to talk terms with them; isn't that right?

Mr. Lewis: This is objected to as being incompetent, irrelevant and immaterial.

The Court: We will sustain the objection to that.

Exception noted.

The Court: There was a previous question you asked that was not answered, that was whether or not the witness knew of any instance here where people seeking to organize labor were called Reds. Do you want him to answer that or not?

Mr. Nelson: I do.

[fol. 858] A. I attempted to answer that——

Mr. Nelson: It should be a "Yes" or "No" answer.

Mr. Lewis: You can't answer that "Yes" or "No"——

A. I attempted to answer that by saying that whether such instances occurred or not is a matter of current knowledge. I would have no particular information on that except what I might read in the newspapers. I have no responsibility for what an employer calls an employee.

Mr. Nelson:

Q. Well, I didn't hold you responsible, Mr. Witness, for what the Mussolini regime did, but you seem to have had an opinion on that question. How come?

A. Well, I only brought it up because you introduced it yourself——

Q. That's right.

A. —what appeared in this letter, and I'm giving you my explanation as to why I wrote that letter, to testify to what I know is my only purpose here on the witness stand; I'm not here to comment generally on affairs of the world. I'm only answering questions which you put to me, and you advanced that letter and I am only giving my explanation as to why I wrote the letter.

Q. But you don't want to make a comment on the question I put to you, or answer it, that employers often in [fol. 859] order to prejudice the public against strikers, they'll call them Reds and Foreigners and Bolsheviks and what-not, and they will even say what you said on the stand here today, unwashed and dirty, and so forth; isn't that a fact that employers will do that?

Mr. Lewis: This is objected to as being incompetent, irrelevant and immaterial.

Objection overruled.

Mr. Nelson:

Q. I have seen in the newspapers that some strikers have been referred to in very appropriate terms, sometimes very unjustifiably. It could have been then, Mr. Witness, could it not, that these workers that you referred to in Italy were likewise just seeking a little more of—a little more of the good things of life by asking for an increase in wages and the employers may have been adamant, and they sat in those factories for the purpose of compelling the employer to talk terms; could that not be the case?

A. They flew the Red flag of Moscow; it wasn't a question of negotiation of wages, it was the Revolution; the Red Revolution that Joe Stalin had ordered and the others had ordered under his control——

Q. All right——

A. —which they are attempting to do in other countries, same pattern.

[fol. 860] Q. Now, to get back to the time you studied Roman law——

A. Do you need to sneer each time you say "Roman law?" Roman law is the foundation of our jurisprudence,

Q. I understand that. I'm not sneering, but I'm kind of suspicious about a person that studies in a Fascist University, so you can't blame me for being sort of sarcastic——

Mr. Lewis: Are you asking a question or——

The Court: We will ask that that remark be stricken from the record.

Mr. Nelson:

Q. Now, at the time when you were in Italy, is it true or is it not true that the educational institutions, including the University of Rome Law School, was under the domination of the Fascisti?

Mr. Lewis: This is objected to as being incompetent, irrelevant and immaterial.

Objection overruled.

The Court: You can answer that question.

[fol. 861] A. The Fascisti government was the government of Italy, the Universities are government controlled, so to that extent it was a Fascist University, but that doesn't mean that Fascist law was taught. Roman law, if you don't know, Mr. Nelson, originated, developed and flourished about 2000 years ago, and this was a course in the history of Roman law, in connection with other subjects which I studied. So you can't refer to that as a Fascist University and convey the impression that one went there to study Fascism. Fascism was not mentioned at all in my classes.

Mr. Nelson:

Q. But you stated here on the witness stand just now in your answer to my question, that all the schools were controlled by the government and the government was controlled by the Fascists? Isn't that true, was that not your answer?

A. Yes, that's true, but you could say every house was a Fascist house because it happened to be there at the time Mussolini was in power, the streets were Fascist streets,

the air was Fascist air, the moon was a Fascist moon, that's your argument carried to its conclusion.

Mr. Nelson: Your Honor, I move to strike all that.

Motion granted.

[fol. 862] Mr. Nelson:

Q. Did you receive a Degree from the University when you graduated?

A. I did. I received a Degree of Doctor of Jurisprudence.

Q. Do you still have that?

A. I have.

Q. You never thought of being such a big advocate of democracy that you claim to be, you never thought of sending that Degree back to the Fascist Director of the University, did you?

A. No, I am proud of that Degree; I worked hard to study that——

Q. All right.

A. ——and there are other Americans equally as patriotic as I am who also got Degrees——

Q. All right, you answered the question, you are proud to have the Degree from the Fascist University——

A. It wasn't from a Fascist University.

Mr. Lewis: I move to strike that question from the record.

Motion granted.

Mr. Nelson: I don't know how it could be stricken. He answered it. It should be part of the record.

The Court: You put into the question a conclusion that [fol. 863] is for the jury to adopt here, that it was a Fascist University. That has not been stated by the witness or anyone else, so that it is for the jury to determine and it is not your privilege to conclude that it was in your question.

Mr. Nelson:

Q. Now, Mr. Musmanno, I believe besides being a Judge you are also a writer—right? I mean, you wrote a number of books?

A. Yes, I have written books.

Q. Let us say you wrote about a dozen full sized books.

A. Seven.

Q. Does any one of those seven books you wrote before the last war in which the United States fought against Mussolini and Franco—I mean Hitler—do any of those books criticize or condemn the Mussolini regime?

Mr. Lewis: This is objected to as being incompetent, irrelevant and immaterial.

Objection overruled.

A. I never had occasion to discuss it in those books. They weren't on any subject which would bring that in. It would be highly immaterial, unharmonious and quite insulting to [fol. 864] the reader to suddenly introduce a subject which had nothing to do with the title or with the scope of the work——

Q. I see.

A. I wrote a book on the Constitution of the United States which was adopted by Congress and is now in Universities and Libraries throughout the land. I'll give you the books I wrote if you want to see them.

Q. I've seen your books——

A. Well, then, you know the answer, if you read the books.

Q. We'll come to that later. Now, Mr. Musmanno, while you were studying at the University of Rome and while you were in Italy, were you acquainted or were you at that time familiar with any of the books that you are introducing as evidence here against me?

A. Some of them I was.

Q. All right. Were you able to buy any of these books in Italy on the stands, or were you able to get them anywhere freely?

A. In 1924 and 1925?

Q. Let's say the exhibit—what is the Manifesto—were you able to buy this book by Marx and Engels in Italy in any of the book stores?

A. I was in Italy more than once. I was there in '24 and '25, then I was there as a member of the Armed Forces of the United States, and later became Military Governor of certain——

[fol. 865] Mr. Nelson: Your Honor, that isn't answering——

A. (Continued:) You didn't specify what time. I'm going to answer your question.

Mr. Nelson:

Q. All right. I mean when you were studying in the University of Rome, during the Fascist regime, were you able to buy this book anywhere in Italy freely?

A. I made no effort to buy it. I wasn't concerned with it——

Q. All right, that's your answer. But from your knowledge you could answer this question, could you not, that Marxist books that are now on trial here, introduced by you as evidence, were illegal in Fascist Italy?

A. I didn't address myself to that inquiry in that period so I can't answer it.

Q. Well, would you say that they were free?

A. Well, if you want me to guess—and that's all I can give——

Q. Yes.

A. I would say that they were illegal.

Q. In other words, these books were illegal and anyone possessing them would have been thrown in jail?

A. Well, now, you are merely speculating——

Q. I am asking you the question.

A. I don't know.

[fol. 866] Q. All right, your answer is you don't know.

A. Very well, that's right.

Q. But in all Democratic countries where there is freedom, these books are available and people who possess them have a right to read them—right?

A. I think the United States is a Democratic country, the most Democratic country in the world.

Q. All right, but that isn't the answer to my question. Amongst the Democratic countries, I mean England and France now, and Italy now, in these countries these books are available and they are not illegal, are they?

A. I haven't been to England and France and Italy for some time so I can't testify——

Q. Then you wouldn't venture an answer to it?

A. No, I wouldn't venture an answer.

Q. Would your contention be that they are illegal?

A. Well, how can I contend about something of which I have no knowledge.

Q. O.K.

The Court: We will give the jury a ten minute recess.

Recess.

[fol. 867] After Recess

MICHAEL A. MUSMANNO, recalled, resumed his testimony as follows:

Cross-examination (Continued):

Mr. Nelson: Your Honor, I would like to make a motion before I continue. I notice that one of the prosecution witnesses, a professional witness who goes from place to place to testify, is sitting over here——

The Court: Just a minute. Come up here.

(At Side Bar):

Mr. Nelson: As I said, this man is sitting in the court room. It is highly prejudicial. The man sits there and has cues from the prosecution to stick a dagger into me and to lie up here. Your Honor, I think he ought to be ordered out of this court room, and I move that he be ordered out of this court room.

The Court: Unless we are going to rule everyone out [fol. 868] I can't forbid the presence of anyone, whether he is going to be a witness or not. Anyone is privileged to sit in a court room.

Mr. Nelson: I don't believe that known paid witnesses who go from town to town testifying, who get paid $50 a day — that's their job — and I think they ought to be kicked out of here.

The Court: You have a right to interrogate them on that basis when they appear as witnesses, whether they heard what they are testifying about in the court room, or know about it on the outside, but unless I am going to exclude all witnesses I can't select one.

Mr. Nelson: Well, your Honor, your ruling is highly prejudicial, I believe. You see, I can't follow up the recommendation you made now to interrogate him on

everything, I'm not a lawyer, I don't know how to do those things and I think you ought to take that into consideration.

[fol. 869] The Court: Was this witness here at the last trial?

Mr. Nelson: Yes.

The Court: Didn't he learn about the situation at the last trial? We will refuse the motion in that connection and grant you an exception.

Exception Noted.

(End of side bar.)

Mr. Nelson:

Now, Mr. Musmanno, just one more word on that reference that you made in this "XYZ"—in your answer to this "XYZ" letter, to the Italian workers when they, as you say, took over the factories. Did that occur while you were there?

A. No, that happened before——

Q. In other words, you reported something that I happened four years before you got there—right?

A. Well, you say I reported—I commented,—I commented——

Q. All right, I'll accept that——

The Court: When was the reply or the explanation?

[fol. 870] Mr. Nelson: 1926.

The Court: The letter to the Press was February 26th; how long after that was the reply given?

Mr. Nelson: Unfortunately I don't have the date on that.

The Court:

Q. Do you know, Judge Musmanno?

A. Oh, yes——

Q. Soon after?

A. A matter of a couple of days.

Q. A couple of days. All right——

Mr. Nelson: I'll look that up, your Honor.

The Court: Well, the witness has stated it was within a couple of days after.

Mr. Nelson:

Q. So, in other words, you commented on a situation that existed four years—six years after the event?

A. I don't understand your arithmetic. 1922 from 1926 leaves four years, not six years.

[fol. 871] Q. But I believe the fact is—you can correct me if I'm wrong—that the Italian workers that you spoke about when they came back from the First World War and they had no jobs and the economy was broken down, they were hungry, they had no recourse, didn't know what to do, and in the course of fighting the stubborn employers they took over the factories, that took place in 1920, did it not?

A. Well, you speak of the hungry workers returning. I don't suppose they took over the factory to eat the machines——

Q. Well, I'm asking you——

A. They took over the factories in order to establish a Bolshevik, atheistic government, that was the purpose. The primary purpose of that invasion of Reds and unwashed Bolshevists was to take over the government and establish, as I say, a Bolshevistic, Communistic, atheistic, anti-God government.

The Court:

Q. Do you know when that was—1920 or '22?

A. It was prior to 1922.

Mr. Nelson:

Q. So you made a comment on a situation that existed before you could have had any personal knowledge? That is, you weren't there to witness it, and yet you speak of it with such heat and indignation without knowing the facts: is that right?

[fol. 872] A. I am a trained analyst; I am a student, I am a research man. I was there when I had an opportunity to talk to the participants in this tragedy which occurred in the lives of the peace-loving people of Italy, so therefore I spoke from knowledge, from people who were there.

Q. Then since you are a student and since you have knowledge of the situation in Italy, Mr. Witness, did you ever write an article that you can produce in this court room, in which you condemned the dirty deeds of Fascism?

A. Yes, I did, I made a speech right there at the University of Rome.

Q. Now, we'll come to that, Mr. Witness. That speech came to light 17 years later—right?

A. You say 17 years. I think your arithmetic there is also wrong.

Q. Well, you correct me on that.

A. Well, 1925 from 1944 makes how many years?

Q. Well, you figure it out.

A. Well, 19.

Mr. Nelson: I'm not quibbling over the figure. I want to get an answer to the question that I put to the witness.

The Court: Well, you want to know whether his speech was published?

[fol. 873] Mr. Nelson: Right. I am sure he would have kept a copy of that speech himself.

A. I didn't say that I didn't. I did have a copy. It wasn't up to me to print it. This came to light through the action of this soldier who saw this student who had been in the University when I made the speech.

Mr. Nelson:

Q. And that is the only thing you have on record that you can show me or this jury, this speech that came to light after you became an Angot official in Italy, that's the only speech you have on record in which you condemned the Fascist regime, but you do have this letter which praises him, don't you?

A. Well, we have this speech that we referred to. You say I only have that letter——

Q. You have——

A. —but you are the one who introduced this subject. I didn't come to this trial prepared to go into my whole life as to what I did politically——

Q. That's right, I know——

A. —you have introduced this letter and I am addressing

myself to the letter and I am giving you a specific answer to the letter.

Q. O.K., but you are a witness on the stand, Mr. Mus- [fol. 874] manno, and I have a right to find out the motives for your Red phobia.

A. Well, I don't know whether you would call it—I'm in love with America and am here to defend American institutions. If you call that Red phobia, make the most of it, Mr. Nelson.

Q. But you are a "Johnny-come-lately" when it comes to that; you haven't done anything——

The Court: All right, gentlemen.

Mr. Nelson:

Q. (Continued:) —until you became a candidate for Lieutenant Governor——

The Court: All right. Come on, now. You——

A. Well, now——

The Court: Just a minute, now. Let's have no more of that.

Mr. Lewis: I ask that that last statement or speech be stricken from the record.

The Court: Strike it out as not a question but as a statement which is not proper here. The jury is instructed to disregard that as well as all other statements made here [fol. 875] that are not questions and answers.

Mr. Nelson:

Q. Now, Mr. Musmanno, I believe after you were in Italy during 1941 to—or '42 to '47, you were in Germany for part of that time—right?

A. Yes.

Q. All right. Now, from your knowledge you say you don't know whether—what happened to the Manifesto in Italy when you were a younger man and when you weren't so interested in this question, let us say. From your knowledge, were these books that you want—that you put on trial here, were they available in Nazi Germany? Could they be bought? Were they legal?

A. What period are you referring to?

Q. Before the American Army got into Germany to defeat the Nazi Army.

A. Well, I wasn't there. How can I testify to——

Q. Well, what do you think?

Mr. Lewis: I object to what he thinks.

The Court: The objection is sustained. It's not what he thinks but what he knows.

Exception noted.

[fol. 876] Mr. Nelson:

Q. Well, what do you know——

A. I wouldn't want to say what I think when I'm talking to you, Mr. Nelson.

Q. All right, we'll have your answer on that——

The Court: He doesn't know prior to '45, or '47.

Mr. Nelson:

Q. Your answer would be that you don't know what happened with these books in Nazi Germany?

A. Well, as a student I could give you an answer on what generally happened in Germany, but that wouldn't be from any first hand knowledge.

Q. I am asking you a specific question: What happened to these books in Nazi Germany? Do you know or do you not know?

A. From personal knowledge I don't know.

Q. All right. Now, Mr. Witness, you are, I believe, the sponsor of a Bill that is known as the Anti Communist Bill in the State of Pennsylvania that was passed in the last session of the Legislature.

A. If you use the word "sponsor" in its technical sense——

Q. I mean you used it in your election campaign as one of your factors, that you wanted to have it passed, isn't that right?

[fol. 877] A. Well, the question is slightly confused. I can answer very clearly, Mr. Nelson——

Q. Let me re-frame it: During your last election cam-